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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

LEOVARDO SALCEDA,
Petitioner

v.

JOHN F. SALAZAR,
Respondent, Warden,

And

JERRY BROWN,
Attorney General of California,
Additional Respondent

Civil No.: '08 CV 1037 IEG PCL

PETITION FOR WRIT OF HABEAS
CORPUS 28 U.S.C. 2254
BY A PERSON IN STATE CUSTODY

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PETITION FOR WRIT OF HABEAS
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A. INTRODUCTION

A jury convicted Leovardo Salceda (petitioner) of one count of kidnapping Pen. C. 207(a). Three prior strikes were found true and petitioner was sentenced to 35 years to life under the Three Strikes Law. On appeal, the conviction was affirmed, but sentence vacated. On remand, the trial court struck two strikes, left one strike active, and re-sentenced petitioner to 8 year upper term for kidnap, doubled to 16 years, and added two consecutive 5 year serious felony priors for a total term of 26 years 80% determinate sentence, which he currently serves.

In this Federal petition for writ of habeas corpus proceeding, petitioner seeks to overturn his state conviction and sentence on grounds of:

1. Ineffective Assistance of Counsel;
2. Actual Innocence of prior robberies;
3. Denial of fair trial;
4. Sentence errors; and
5. Prejudicial statements by trial court made to jury before deliberations.

On 9-27-08, the California Supreme Court denied the five claims mentioned above on the MERITS, without citation to procedural default. See Denial Order, S150480, 9-27-08. **Exh. A16.**

Petitioner's pleadings in pro se are held to less stringent standards than formal pleadings drafted by attorney's. *Heines v Kener* 404 US 519, 520. Petitioner presents the habeas corpus petition and application for equitable and statutory tolling in type-written form because the petition and equitable claims are lengthy and complex which does not fit on the Court's standard 2254 habeas form. All information required for this Court's review is included. If petitioner missed something and this Court requires it, petitioner promptly will supplement the information required. The habeas and equitable claims are stapled separately because they are bulky, but refer to the same exhibit's and petitioner's declaration. *Cal. Rules of Court; (Federal) U.S. Dist. Ct., Southern Dist. Rule HC.2.6 (2008)*

Petitioner refers to the Reporter's and Clerk's Transcript of the instant case unless otherwise noted. Should this Federal District Court require further documentation (apart from exhibits submitted herein) to verify petitioner's claims, petitioner will promptly will mail them to this Court via US Mail.

The certified documents in petitioner's prison locker are:

(1) Complete set of RT and CT of instant case SCD112436; (2) Court file of instant case; (3) Defense counsel client file of instant case; (4) District attorney letters concerning discovery of instant case; (5) Court file and clerk's minutes of prior robbery case CR105783; (6) Defense counsel client file of prior robbery case; (7) District Attorney letters concerning discovery and disclosing exculpatory evidence of prior robbery case; (8) RT of prior assault W/D/W case CR140382; (9) Court file of prior assault W/D/W case; and (10) Defense counsel client file of prior assault W/D/W case.

Petitioner was prosecuted at the San Diego Superior Court, 220 W. Broadway, San Diego, CA 92101, (619) 531-4420, in the instant case SCD112436 and both prior conviction cases CR105783 and CR140382.

B. FACTS AND PROCEDURE HISTORY OF INSTANT CASE SCD112436

An Information was filed on 5-17-95, charging petitioner with Count 1 kidnapping to commit robbery Pen. C. 209(a); Count 2 kidnapping Pen. C. 207(a); Count 3 attempted carjacking Pen. C. 664, 215(a); and Count 4 assault W/D/W Pen. C. 245(a)(1). It was also alleged petitioner suffered two prior felonies under Pen. C. 667(a)(1), and suffered three prior felonies under the Three Strikes Law Pen. C. 667(b)-(i), 1170.12. Petitioner faced three strikes case. CT 1-3.

On the day of jury trial, 9-25-95, Counts 1 and 3 of the Information were dismissed. Counts 2 and 4 were renumbered Counts 1 and 2 for trial purposes. (Petitioner was held to answer kidnapping and assault W/D/W). RT 27-28; CT 213.

1. Prosecution Evidence.

Petitioner's jury trial lasted three days. On 9-25-95, jury trial began. Russell Champion testified he was driving home and stopped to allow petitioner to walk across the street. As petitioner reached the curb, he turned and jumped into Champion's car through the open passenger window. Although not armed, petitioner flexed his fist in Champion's face and demanded Champion drive forward. Champion drove four long blocks. Halfway into the ride, Champion slowed down to make a left turn on the street he lived on. As Champion slowed to turn, petitioner told him to go straight, but Champion instead turned. Petitioner did not seem upset. As Champion drove, there were two bystanders 100 yards apart. The 1st bystander was changing his shirt next to a parked pickup truck on petitioner's side. Petitioner told Champion to stop next to the 1st bystander. Petitioner tried to talk with the man, but the bystander frowned and did not respond to petitioner. Champion continued driving slowly. As Champion neared his home, petitioner told Champion to stop next to the 2nd bystander who was raking his yard, but Champion said no and petitioner punched him two times. Champion was near his home and zoomed into his driveway and stopped and Petitioner exited the car and went on foot back to the 2nd bystander and asked for a ride home. Champion called 911 at 5:05

1 p.m. and within five (5) minutes the police arrived and arrested petitioner standing in front of the 2nd
2 bystander's home. In total Champion drove four long blocks (1.2 miles) and petitioner was in
3 Champion's car five minutes. Champion testified petitioner did not appear intoxicated nor acting
4 unusual. RT 59-100.

5 6 2. Defense Evidence

7 Petitioner testified he began drinking beer at his home at 10:00 a.m. He then went to his
8 mother's home and continued drinking. At 1:30 p.m. Petitioner left his mother's home staggering
9 drunk. At 2 p.m., petitioner entered a bar and continued drinking and blacked out in the bar.

10
11 Carmen Lopez, petitioner's mother, testified petitioner was at her home from 11 a.m. to 1:30
12 p.m., drinking beer. At 1:30 p.m., petitioner left her home and he was staggering because he was
13 drunk.

14 Gabriela Murgo, barmaid, and Jesse Guerrero, bouncer, testified petitioner entered the bar
15 about 2 p.m. and Murgo served petitioner beer for 3 hours. At 5 p.m., Murgo and Guerrero saw
16 petitioner was too intoxicated, swaying and bothering people in the bar, so they decided to stop serving
17 him beer. At that same time (5 p.m.) Guerrero kicked petitioner out of the bar. Within five (5)
18 minutes of leaving the bar, Petitioner was in Champion's car. RT 236-353.

19 20 21 Conviction and Sentence.

22 After all the testimony had been give in the jury trial, defense counsel motioned to bifurcate the
23 prior convictions. Trial on the priors convictions was bifurcated. RT 386-387; CT 213.

24 On 10-3-95, the jury found petitioner **guilty** of Count 1 kidnapping Pen. C. 207(a), and **guilty**
25 of exhibiting a deadly weapon Pen. C. 417(a), as a lesser related offense of an assault W/D/W charged
26 in Count 2. RT 460-465; CT 120-123, 225.

1 The following day, on 10-4-95, a bifurcated trial on the priors was held. The trial court found
2 true the two prior robberies (2 strikes); and one prior assault W/D/W (1 strike). RT 466-476; CT 226-
3 227. **Exh. B11.**

4 On 12-29-95, petitioner was sentenced to 35 years to life under the Three Strikes Law as
5 follows: 25 years to life for kidnapping with prior convictions. Pen. C. 207(a); 667(e)(2),
6 1170.12(c)(2), plus 10 years for two prior serious felony convictions Pen. C. 667(a)(1). RT 672-675;
7 CT 205, 213.

8
9
10 **3. First Direct Appeal, Re-Sentence, Second Direct Appeal**

11 Petitioner appealed the conviction and sentence and claimed 1) instructional error, 2) illegal
12 sentence, and 3) trial court should have exercised its power to strike prior "strikes" under 3 strikes law.
13 On 10/25/96, the Court of Appeal filed an unpublished opinion and affirmed the kidnap conviction, but
14 vacated the 35 years to life sentence and remanded petitioner's case to allow the trial court to exercise
15 its power to strike priors in the interest of justice under the authority of *People v Superior Court*
16 *(Romero)* 13 Cal.4th 497.
17

18 On 6/12/97, at re-sentence the trial court struck 2 strikes and left 1 strike active: It then
19 selected the 8-year upper term for kidnap, doubled to 16 years because of an active strike, and added
20 two consecutive 5-year serious priors for a total determinate sentence of 26 years 80 %. RT 17-21, 6-
21 12-97.

22
23 Petitioner appealed the sentence and claimed 1) mitigation outweighed aggravation sentencing
24 factors and therefore the trial court erred in selecting the 8 year upper term, and 2) Petitioner should
25 get 531 days credit toward his 26 year sentence. On 3/25/98, the Court of Appeal filed an unpublished
26 opinion and affirmed the sentence, and awarded petitioner 531 days credit towards his 26 year
27 sentence. See 1st Appeal Opinion D025258, 10-25-96. **Exh. A.** See 2nd Appeal Opinion D029086,
28 3-25-98. **Exh. A1**

1 Petitioner did not file a Petition for Review in the California Supreme Court, nor Petition for
2 Certiorari in the US Supreme Court neither after the 1st appeal, nor after the 2nd appeal.
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CLAIM**I.****TRIAL COUNSEL WAS INEFFECTIVE IN PRETRIAL, TRIAL, TRIAL ON PRIORS, AND
SENTENCE STAGES. CAL.CONST. ART. I, SEC. 15; U.S. CONST. 5TH, 6TH, 14TH
AMENDS.****A. INTRODUCTION**

Petitioner claims Daniel J. Mangarin, trial counsel, was ineffective at pretrial, trial, trial on priors, and sentencing stages. Given the particular facts, and circumstances of petitioner's 3-Strikes case, Mangarin failed to investigate the conflict of interest even though petitioner told him valid reasons to investigate. Those reasons being the public defender declared conflict of interest directly related to the prior robbery case, i.e., allegations that the former public defender was ineffective and possible grounds to strike the 2 prior robbery strikes. Apart from the conflict, Mangarin had an obligation to examine the prior cases to determine their validity. Had Mangarin done so, it is reasonable he would have discovered Boykin-Tahl error on face of prior robbery case file. *Boykin v Alabama* 395 US 238; *In re Tahl* 1 Cal.3d 122. (*Boykin-Tahl*). Petitioner also told Mangarin that he did not rob Rafael Haro in the prior robbery case. By investigating the conflict, validity of priors, and petitioner claims to Mangarin that he did not rob Haro, it is reasonable Mangarin would have unearthed existing exculpatory statements made by Haro and Juan Sanchez, eyewitness, that existed in the client file and prosecutor's file. Petitioner even testified in the instant case on cross-examination that he did not rob Haro.

Petitioner, in pro per, exercised due diligence in gathering records and unearthed favorable and material evidence going to petitioner's guilt in the prior robbery case, and favorable and material evidence now going to petitioner's 3-strikes punishment. Had the evidence been disclose, it would have made an outcome favorable to petitioner both in the prior case, and in the instant case. Petitioner claims, inter alia, the prosecutor in the prior case, and in the district attorney in the instant case did not disclose

evidence tending to exonerate petitioner of the Haro robbery and punishment in instant case. *Brady v Maryland* 373 US 83. (Brady error). This means that *Boykin-Tahl* error, exculpatory evidence, and *Brady* error existed, but because of Mangarin's inattention he failed to discover evidence that existed in the legal files at the courthouse petitioner was prosecuted at. Because of Mangarin's ineffective assistance it resulted in prejudice because petitioner suffers an unconstitutional 13-year enhancement on top of his current sentence. Without the 13 year enhancement, petitioner would have a 13 year sentence, not 26 years.

1. Judicial Officer's

Petitioner has the instant case, and 2 prior conviction cases. For purposes of clarity, and because petitioner refers to the judicial officer's interchangeably, petitioner introduces them:

1. **Instant Kidnapping Case SCD112436 (1995):** Honorable E. Mac Amos, Judge; Michael Groch, Prosecutor; and Daniel J. Mangarin, Alternate Public Defender;
2. **Prior Robbery Case CR105783 (1989):** Honorable William D. Mudd, Judge; Luis Arrogan, Prosecutor; and William Youmans, Public Defender;
3. **Prior Assault W/D/W Case CR140382 (1993):** Honorable Joan P. Weber, Judge; Albert Barrett, Prosecutor; and Thomas Carnessale, Public Defender.

B. CONFLICT OF INTEREST

Petitioner was arrested on 4-23-95 in the instant case. Ronald K. Vanesian, Public Defender, represented petitioner. On 5-30-95, Vanesian interviewed petitioner concerning the instant case, and his exposure to several life sentences because of prior strikes under the 3-Strikes law. On 6-23-95, Vanesian filed a *Penal Code 995* motion to dismiss all counts, and a *1385* motion to strike prior "strikes." Prosecutor filed opposition to both motions. On 8-4-95, a hearing was held on the motions and they were denied. At the 8-4-95 hearing, petitioner asked Vanesian to provide him with copies of

1 records being used against him in the instant case SCD112436, and also of the prior conviction cases
2 CR105783 and CR140382. Police reports, Information's, preliminary hearings, investigative reports,
3 and other documents pertaining to the instant and prior cases. Vanesain did not provide any records
4 petitioner requested.

5 Next, Vanesian consulted Dr. Smith, psychiatrist, to examine petitioner. On 8-9-95, Dr. Smith
6 concluded:
7

- 8 1. In regards to instant offense, petitioner was intoxicated and suffered an alcoholic blackout at the time
9 of instant offense; and
- 10 2. In regards to "Previous Arrests" petitioner was heavily intoxicated and under peer pressure from a
11 friend when the prior robberies were committed.

12 Vanesian determined that Dr. Smith's report was directly connected to the prior robbery case that
13 caused serious conflicts of his representation of petitioner, so on 8-11-95, Vanesian declared conflict of
14 interest. Vanesian did not explain to the trial court what the conflict was. Nor did the court investigate
15 on the record the basis for the declared conflict. Vanesian and the court simply repeated to each other
16 that a conflict existed. However, at the conflict hearing, Vanesian told petitioner the reasons that caused
17 the conflict of interest. Specifically, that Dr. Smith's report disclosed material facts directly related to
18 the prior robbery case. Dr. Smith's report disclosed that petitioner was intoxicated and under peer
19 pressure from a friend when the 2 prior robberies were committed. Vanesain said the prior robbery case
20 indicated a court trial was held, and William Youmans, former public defender, was ineffective for
21 failure to introduce intoxication evidence in the court trial to negate the 2 prior robberies. Vanesain
22 said he could not investigate Youmans because he was a co-worker in the same San Diego Public
23 Defender Office and conflicting loyalties would occur to his office, fellow public defenders, and to
24 petitioner. Therefore, new counsel would be appointed and investigate whether Youmans was
25 ineffective and be possible grounds to strike the 2 prior robbery strikes. This would leave petitioner
26 with only 1-strike from the prior assault case and save petitioner from several life sentences under the 3-
27
28

1 Strikes law. See Conflict Hearing RT 1-2, 8-11-95. **Exh. B**. Dr. Smith's Rpt., 8-9-95. **Exh. B1**.
2 Petitioner's Declaration (Pet.'s Decl.) at # 4, 5, _____, 3-30-08. **Exh. C**.

3
4 *1. New Counsel*

5 On 9-3-95, Daniel J. Mangarin, Alternate Defender, interviewed petitioner concerning the instant
6 case and exposure to several life sentences because of prior strikes under the 3-Strikes law. At this
7 attorney / client meeting, petitioner told Mangarin that Vanesain claimed the former public defender,
8 Youmans, was ineffective for failure to introduce intoxication evidence in the court trial in the prior
9 robbery case, and it could be grounds to strike the prior robbery strikes. Petitioner further told Mangarin
10 that he did not rob Haro in the prior robbery case. Petitioner explained that Haro and Juan Sanchez were
11 sitting in a car and Jesus Lopez walked up to the car and Lopez robbed Haro while Haro sat in the
12 driver's seat. Sanchez was the passenger and seen Lopez rob Haro. Petitioner told Mangarin he served
13 prison time for Haro's robbery, and after petitioner was released from prison, he learned through
14 Sanchez that Haro had went to the courthouse during the time petitioner was being prosecuted for
15 Haro's robbery and Haro told the court petitioner did not rob him.
16
17

18 Mangarin told petitioner he would not investigate the conflict of interest, nor petitioner's claim
19 of innocence .

20 At the attorney/client interview (9-3-95) petitioner asked Mangarin to provide him with copies of
21 records being used against him in the instant case and also of the prior conviction cases. Police reports,
22 Information's, preliminary hearings, investigative reports and any other related documents pertaining to
23 the instant and prior cases. Mangarin did not provide any records petitioner requested.
24

25 **C. INEFFECTIVE ASSISTANCE OF COUNSEL IN PRETRIAL STAGES**

26 Valid reasons existed at pretrial stages for Mangarin to investigate the prior robbery case file.
27 On one hand, petitioner specifically told Mangarin the conflict was because Vanesian claimed Youmans
28 was ineffective in the prior robbery case and could be grounds to strike the 2 prior strikes. Mangarin

1 knew the prior robbery case constituted 2 strikes, yet Mangarin told petitioner he would not investigate
2 the prior case. Mangarin himself acknowledged to the trial court that he "just recently" received
3 petitioner's case based on the conflict. See RT 238-239, 9-26-95. **Exh. F**.

4 On the other hand, Mangarin told petitioner to testify in the instant case, and Mangarin knew the
5 prosecutor would impeach petitioner's testimony. On the day of trial, 9-25-95, the trial court,
6 prosecutor, and Mangarin discussed that petitioner would testify, and the trial court ruled the 2 prior
7 robberies would be used to impeach petitioner. RT 31-34, 9-25-95. **Exh. F 1**.

9 Had Mangarin investigated the conflict, which was Dr. Smith's report and facts in the prior
10 robbery case file, he would have learned that first of all a court trial was not held wherein Youmans
11 could have introduced intoxication evidence to negate the 2 robberies. The reason is simple, because
12 petitioner entered into a "slow plea" wherein the prosecutor submitted the preliminary hearing transcript
13 in which Haro (1st victim) and Cespedes (2nd victim) testified petitioner robbed them. And Youmans,
14 representing petitioner submitted on the basis that the transcript would be the slow plea. The record
15 shows Youmans never contested the transcript, so from a legal point; this was tantamount to a guilty
16 plea. But the face of prior robbery case file clearly shows Boykin-Tahl error.

18 Mangarin had an obligation to review the prior robbery court file. By acknowledging missing,
19 and invalid constitutional waivers, he had a duty to file pretrial motion to strike prior robbery case on
20 Boykin-Tahl grounds. At the pretrial stages, when a proper record exists, Boykin-Tahl claims can be
21 easily determined as right of counsel claims, *Gidon v Wainwright* 372 US 335, because Boykin-Tahl
22 error would appear right on face of record. The better practice is to file the motion to strike prior from
23 the accusatory pleadings for sentencing purposes. *People v Sumstine* 36 Cal.3d 909, 915-16. (Holding
24 pretrial motion is preferred. This is not attempt to reverse conviction, but to strike it for sentence
25 purposes.)
26
27
28

1 From 1998 through 2001, petitioner gathered records to support Boykin-Tahl error. In particular,
2 on 2-4-01, petitioner wrote Court Reporter Specialist requesting transcript of slow plea. On 2-14-01, E.
3 Neal, Court Reporter, wrote a letter to petitioner and said transcript of slow plea existed from 10-3-89 to
4 10-3-99 (10-years). On two other occasions, petitioner made efforts to get Youmans client file of the
5 prior robbery case. On 3-1-00, petitioner wrote Public Defender requesting the client file. On 4-28-00,
6 Alex Loebig, Public Defender, wrote petitioner but did not send client file and further explained
7 Youmans died. On 2-30-03, petitioner wrote the State Bar seeking assistance to get Youmans client file.
8 On 3-30-03, State Bar wrote petitioner explaining Youmans died on 3-1-99.
9

10 This means Mangarin in instant case had opportunities in 1995 to get transcript of slow plea, and
11 interview Youmans who still lived, respectively, to support *Boykin-Tahl* error. Petitioner is now
12 prejudiced because records that did exist in 1995, i.e., transcript of slow plea and (Youmans lived) when
13 Mangarin represented petitioner have been destroyed and foregone. Prejudice is further compounded
14 because had the prior been stricken, the max petitioner would have faced is 13 years, not 26 years he
15 currently serves. As follows: 8 year upper term for kidnapping, and 5 year serious felony prior for prior
16 assault case (CR140382) total: 13 years.
17

18 The trial court at re-sentence on 6-12-97 specifically struck the prior assault case explaining the
19 "facts" of that prior were not sufficient to justify a 2nd or 3rd strike. Thus, without the prior robbery
20 case, petitioner would only received 13 years max.
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1 1. Ineffective Assistance at Trial

2 On 9-25-95, trial began. On 9-26-95, Champion testified petitioner kidnapped him. On 9-27-95,
3 petitioner testified about the kidnapping allegations. The prosecutor, on cross-examination, changed the
4 focus of the kidnapping charges, and asked petitioner whether he suffered 2 prior robberies in 1989.
5 Petitioner testified he did not rob Haro in the prior robbery case. The prosecutor refuted petitioner's
6 claim of innocence by "falsely claiming" that petitioner signed a change of plea form in 1989, case #
7 CR105783, which had on it "robbery, robbery, auto theft." Petitioner never signed a plea form.

8
9 Mangarin should have known no plea form existed, but his inattention in pretrial stages allowed
10 prosecutor to use deceptive measure and hoodwink petitioner, jury, trial court, and Mangarin himself.
11 More importantly, valid Boykin-Tahl waivers would appear on face of plea form. A review of prior
12 robbery court file proves no such plea form exists. Only 2 minute orders record the slow plea, but no
13 Boykin-Tahl waivers appear on the face. Mangarin was unfamiliar with petitioner's prior strikes that
14 seriously compromised his representation. Petitioner's claim of innocence, and prosecutor's false claims
15 a plea form existed:
16

17 **PROSECUTOR:** Your prior convictions were for 2 different robberies as well as car theft in 1989,
18 wasn't it?

19 **PETITIONER:** It was one case sir.

20 Q. It was 2-victims, wasn't it?

21 A. Yes.

22 Q. it was 2-robberies, wasn't it?

23 A. Yes.

24 Q. And car theft?

25 A. No. I didn't do the first robbery. (Sic, Haro is the first robbery)

26 Q. And you served time on a robbery you didn't do?

27 A. Yes.

28 Q. Well, both of those robberies occurred within 15-minutes of each other didn't they?

A. Yes.

Q. And you're saying you did one but not the other?

1 A. Yes.

2 Q. Which robbery didn't you do that you pled guilty for. Which one of the 2-robberies that
3 occurred within 15-minutes of each other?

4 A. The first one. (Sic, Haro is the first robbery).

5 Q. My question to you is, do you or do you not admit that you were convicted of 2-robberies.

6 A. I said yes already.

7 Q. Of 2 robberies and car theft?

8 A. They gave me "2-strikes" for that.

9 Q. Do you or do you not admit you were convicted of 2-robberies and a car theft?

10 A. I pled guilty to 2-robberies.

11 Q. And a car theft. Let's see if you recognize your signature on a change of plea form. Do you see
12 the name there where it says Leovardo Salceda?

13 A. Yes.

14 Q. Is that your signature?

15 A. Yes.

16 Q. And that's your signature on a change of plea form, court # CR105783, isn't it?

17 A. Yes.

18 Q. And isn't it a fact you see here, robbery, robbery, unlawful taking of a vehicle. That's what you
19 pled to?

20 A. But I didn't take the car.

21 Petitioner's Testimony RT 288-290, 9-27-95. **Exh. B2**.

22 As an offer of proof, see Minute Orders that record the slow plea. Minutes, 10-2-89, 10-3-89,
23 CR105783. Exhs. B10.

24 At trial Mangarin had opportunity to object that no plea form existed, and move to strike the
25 prior robbery case on Boykin-Tahl grounds.

26 Turning to petitioner's testimony claiming innocence. 2 pieces of exculpatory evidence existed
27 that Mangarin had access to had he asked for them. Also had Mangarin investigated the conflict and
28 petitioner's claim of innocence, and claims that Haro went to court after he testified at preliminary

1 hearing incriminating petitioner, stating he mis-identified petitioner, it is reasonable Mangarin would
2 have discovered: 1.) evidence in prosecutor's file that Haro mis-identified petitioner; and 2.) Sanchez,
3 eyewitness, tape-recorded statement that petitioner did not rob Haro, that some other person with brown
4 hair robbed Haro. Exhs. B4, B5.

6 2. Discovery of Haro and Sanchez Exculpatory Statements

7 In the course of petitioner's collateral attack in the state court's by way of habeas and mandate
8 petitions, petitioner was able to unearth exculpatory evidence that was suppressed by the prosecution.
9 The evidence was favorable to petitioner and it hurt the prosecutions case. The evidence was material to
10 petitioner's guilt in the prior robbery, and it was material to 3-Strikes punishment.
11

12 On 11-25-02, petitioner filed in the court of appeal a state habeas petition alleging Boykin-Tahl
13 error interwoven with Haro's recant causing prejudice. This in turn illegally enhances petitioner's
14 current sentence with an invalid prior conviction. Petitioner also claimed he was actually innocent of
15 robbing Haro. In rendering its order denying relief, the court stated:
16

17 "We have taken judicial notice of prior robbery case file CR105783.

18 "Salceda claims the 1989 conviction is invalid because he agreed to a slow plea but was never informed
19 of the right to remain silent and to cross-examine witnesses. The record is silent whether Salceda was
20 advised and the court reporter's notes have been destroyed.

21 "Salceda claims had he known he could cross-examine witnesses he would have preceded to trial. He
22 claims prejudice because robbery victim Rafael Haro later recanted his preliminary hearing
23 identification of Salceda in open court. ***There is nothing in the record in to show Haro recanted.***

24 "Salceda's claim he is factually innocent of the robbery of Haro is unsubstantiated."

25 The habeas petition was denied. See Court of Appeal Opin. D041226, 2-6-03. Exh. A7.

26 The Court of Appeal had strong interest in Haro's exculpatory statement, but the problem for
27 petitioner was where to find Haro's statement. On 3-13-03, (after opin. D041226, 2-6-03), petitioner
28 wrote to the district attorney requesting exculpatory evidence to prove his innocence claim of Haro. The
prosecutor responded in a letter dated 5-21-03 and stated:

1 "Re: People v. Salceda, CR105783 / DA B62621

2 Dear Mr. Salceda:

3 "We are in receipt of your letter dated March 18, 2003, requesting discovery in the above case. Mr.
4 Haro provided brief information to this office on October 3, 1989, indicating that he had *mis-identified*
5 *you* as the person who had robbed him. He stated on that same date that he had no intention of coming
6 to court at your trial and that he resided in Tijuana, Mexico. The information from Mr. Haro was not
7 reduced to a report, but only noted in your case file.

8 "The information provided by Mr. Haro was immediately provided to your attorney at that time, Mr.
9 William Youmans, at the time of your trial. If you require further information please contact the Office
10 of the Public Defender of San Diego County."

11 Sincerely, /s/, George W. Clarke, Deputy District Attorney

12 Based on Clarke's, DDA, letter, petitioner believed more exculpatory evidence existed in
13 Youmans client file. On 6-3-03, petitioner filed in the court of appeal a *petition for writ of mandate* for
14 order upon public defender to give petitioner the client file. On 6-9-03, and 6-11-03, Gary R. Nicholes,
15 Public Defender, wrote a letter and executed a declaration to the court of appeal and petitioner
16 explaining he located the "*missing file*," and thereafter he mailed petitioner a copy of entire file
17 maintained by his office. On 6-30-03, petitioner received the file. Because petitioner received the file,
18 the court of appeal denied the mandate petition as moot.

19 Note: The client file CR105783 does not contain information that on the day of trial, 10-3-89,
20 the prosecutor told Youmans that Haro went to their office and stated he misidentified petitioner.
21 Haro's statement was favorable to petitioner, material towards guilt, and would have made a different
22 outcome favorable to petitioner had it been disclosed in the prior robbery case. Also, had Haro's
23 statement been disclosed, and petitioner properly advised of his rights to confront witnesses, and against
24 self incrimination, petitioner would not have entered into the slow plea, but instead went to trial.
25 Petitioner's plea was not voluntary, intelligent, nor knowingly. The federal test for guilty pleas is did
26 petitioner have an alternative course of action open to him had he been properly advised. Petitioner
27 claims he had an alternative course of action had he been so advised of Boykin-Tahl errors. *People v*
28

Howard 5 Cal.4th 1132, 1175, citing *Alford v North Carolina* 400 US 25, 32.

Moreover, petitioner found in the client file Juan Carlos Sanchez tape-recorded statement that petitioner did not rob Haro, that some other person with brown hair robbed Haro. See Ct of App. Opin. D041226, 2-6-03. **Exh.** A7. Clark, DDA, Lett., 5-21-03. **Exh.** B4. Nicholes, Pub. Def., Lett. & Decl. 6-9-03, 6-11-03. **Exhs.** E42, E43. Ct. of App. (Mandate) D042258, 7-17-03. **Exh.** A8.

3. Charging 3-Strike Priors, Violation of Brady v Maryland 373 US 83, Prosecutor Misconduct

Michael Grouch, Deputy District Attorney, filed the instant Information charging petitioner with kidnapping, and alleged 2 prior robberies (2 strikes), and 1 prior assault (1-strike). Petitioner claims Groch reviewed the prior robbery file maintained by his office and knew key details of the prior robbery case. Groch cross-examined petitioner: In 1989 he was convicted of 2 robberies and auto theft, it was two victims, the robberies were 15 minutes apart, specific case # CR105783, and petitioner served prison time for the prior robberies. See RT 288-290, 9-27-95. **Exh.** B2.

Groch reviewed the prior robbery file and knew notations existed tending to exonerate petitioner of the prior robbery case. Specifically, according to the letter by Clark's, DDA, he disclosed the notations in the prosecution's file stated Haro went to their office on the day of trial (prior to guilt phase), in the prior robbery case, stating he mis-identified petitioner as the robber. See Clarke's Lett., 5-21-03. **Exh.** B4. Groch knew this exculpatory existed when he questioned petitioner. **So when petitioner testified under oath he did not rob Haro**, Groch had a duty to disclose it to Mangarin (trial counsel) in the instant case under *Penal Code 1054* discovery, and *Brady v Maryland* 373 US 83 doctrine because that very prior robbery case Groch relied on to strike petitioner out under the 3-strikes law, and it is clear it went to petitioner's punishment in the instant 3-strikes case. As far back as 1972, the California Supreme Court set forth a rigorous controlling legal precedent in *In re Ferguson* 5 Cal.3d 525, 532-33, that in California criminal cases, even if the defense attorney does not request discovery,

1 when the prosecutor knows exculpatory evidence exists and reasonably knows it tends exonerate the
2 defendant either in the guilt phase or punishment phase the prosecutor has an obligation to inform trial
3 counsel of the evidence. The *Ferguson* Court cites *US v Agurs* 427 US 97, 110-11. Explaining in part
4 that in a criminal trial, the prosecutor's driving force is to present the facts and ascertain the truth, not
5 obtain convictions by any means irrespective of the defendant's constitutional rights. *Ferguson* 5 Cal.3d
6 p. 531. "The suppression by prosecution of evidence favorable to an accused upon request violates due
7 process where the evidence is material either to guilt or to punishment, irrespective of the good faith or
8 bad faith of the prosecution." *Brady v Maryland* 373 US 83, 87.

10 In *US v Agurs* 427 US 97, 110, the High Court said, "Nor do we believe the constitutional
11 obligation is measured by the moral culpability, or the willfulness, of the prosecutor. If evidence highly
12 probative of innocence is in the prosecutor's file, he should be presumed to recognize its significance
13 even if he has actually overlooked it If the suppression of the evidence results in constitutional
14 error, it is because of the character of the evidence, not the character of the prosecutor." The evidence
15 reveals petitioner did not rob Haro, evidence was suppressed, and petitioner never signed a change of
16 plea form with valid Boykin-Tahl waivers.

18 Groch also knew petitioner never signed a change of plea form in the prior robbery case
19 CR105783. So when petitioner testified he did not rob Haro, Groch committed misconduct in deceiving
20 petitioner, jury, trial court, and Mangarin by falsely claiming a plea form existed. See RT 288-290, 9-
21 27-95. **Exh. B2**.

23 Even though petitioner wrote to the public defender numerous times to get copy of Youmans
24 client file, petitioner was unable to. Petitioner only got a copy of the client file after he filed petition for
25 mandate in the Court of Appeal on June 3, 2003. However, the prosecutor had in its possession Sanchez
26 exculpatory statement that petitioner did not rob Haro . . . that some other person with brown hair
27 robbed Haro. Given the highly exculpatory nature of Sanchez statement, Groch had a duty to also
28

disclose this to Mangarin in the instant case.

4. Ineffective Assistance at Trial on Priors

On 10-3-95, petitioner was convicted by the jury and they were discharged. RT 463. Immediately thereafter, the Court set a time and date for trial on the priors. In setting a date, the discussion between the Court, prosecutor, and Mangarin revealed Mangarin had not examined the certified documents that were to be used to prove the priors. The following colloquy in open court:

Court: Again, let me thank you (the jury) for the time and effort that you put in on this case. So you are discharge.

Court: We're outside the presence of the jurors. We have the other part of the trial that we need to handle with respect to the priors. What's the time estimate, do you expect?

Groch (Prosecutor): 30 minutes.

Court: Have you seen all the packets and so forth, Mr. Mangarin?

Mangarin: (Defense Counsel): I'm not sure, you Honor, but I don't think it's going to be a problem seeing them, if I can get them before the hearing.

Court: So we'll continue the trial on the priors and we'll handle that at four O'clock tomorrow.

Groch: Thank you, your Honor.

Court: Thank you.

RT 463-465. Exh. F4.

The following date, 10-4-95, Sam Bove testified for the prosecution. Essentially, Bove testified petitioner was the same person in the instant case as the person in the prior robbery case. Petitioner's photo and prints matched in both cases, i.e., court documents.

In this particular stage, the prosecutor changed tactics and no longer claimed a "change of plea form" existed bearing petitioner's signature that specifically noted: "Robbery, robbery, auto theft," case #CR105783. Instead he used selective documents:

1. Information filed 8-20-89, charging 2 robberies and auto theft, CR105783;
2. Jury waiver, 10-3-89, CR105783;
3. Sentence minutes, 11-2-89, CR105783;
4. Abstract of judgment, 11-2-89, CR105783; and
5. Cal. Penal code 969(b) "prison packet," 12-1-89, petitioner's photo & prints, CR105783.

Bove was the only prosecution witness. When he finished testifying and the prosecutor submitted the court documents mentioned above to prove the priors, the court asked Mangarin if he wanted to review the documents. Mangarin replied, "No. We submit." The court found true petitioner suffered 2 prior robberies (2 strikes), and 1 prior assault W/D/W (1 strike). The court set a sentence date. RT 466-476; CT 125-145, 226-227. Exh. B11. (Prior convictions CR105783 and CR140382).

Mangarin did not object, contest, or otherwise challenge the prior robbery case. This may have been reasonable trial tactics had the prior conviction been sound and free of Brady and Boykin-Tahl error, and the possibility that petitioner was actually innocent of the prior robbery. However, it was not. It is unreasonable to expect that from the day of conviction of kidnapping - 10-3-95 to the following day - 10-4-95 "1 day" Mangarin conducted reasonable investigation whether the prior conviction was valid for sentencing purposes. The above documents used by the prosecutor to prove the prior robbery case were incapable on their face of telling whether Boykin-Tahl waivers had been elicited and personally taken from petitioner. It is unreasonable to expect Mangarin in "1 day" to have the transcript of the slow plea transcribed or interview Youmans to determine whether or not valid waivers existed. And the prosecutor suppressing Haro's exculpatory evidence further violated petitioner's right to fair trial.

5. Ineffective Assistance at Sentence Hearing

Concluding trial on priors, the trial court set a sentence date for 12-29-95. At sentence, the prosecutor urged the trial court to sentence petitioner to 35 years to life based on instant crime, and 3

1 prior strikes.

2 In addressing the court, Mangarin outline petitioner's current conviction for kidnapping, and
3 both prior conviction: Mangarin clearly understood the 1993 prior assault was a "*guilty plea*" and
4 constituted 1 strike. However, turning to the 1989 prior robbery case, Mangarin believed the 1989 prior
5 robbery case was a full-blown "court trial" wherein Judge Mudd received evidence by both prosecutor
6 and Youmans, and found petitioner *guilty beyond a reasonable doubt* of 2 robberies, constituting "2
7 strikes." Mangarin stated:

8 "Yes, the first case was the 1989 case. He was found guilty of two separate counts (of robbery)
9 on that in a . . . Court Trial with Judge Mudd."

10 RT 666-667, 12-29-95. Exh. F2.

11 The problem here is that a full-blow "court trial" was never held, the procedure was a slow plea
12 and tantamount to a guilty plea. A case on point in describing the significant difference between a full-
13 blown court trial and slow plea is *People v Levey* 8 Cal.3d 648, 651. The procedure of submission of
14 preliminary hearing transcript without guilt contested, no argument by defense counsel, and no
15 presentation of evidence is a guilty plea.
16

17 Any competent attorney after conviction of 1 count of kidnap, and 3 strike priors are alleged,
18 would request continuance (if it is short notice) to investigate the prior convictions. However, only 1
19 day after guilt finding in instant case, Mangarin did not have time to investigate, nor did he intend to do
20 so.
21

22
23 6. Mangarin's Client File

24 In the course of petitioner's collateral attack, on 9-25-02 petitioner wrote Mangarin requesting
25 work product client file in instant kidnapping case. He did not respond. On 11-1-02, petitioner wrote
26 the State Bar complaining Mangarin would not release the file. On 12-16-02, the Bar contacted
27 Mangarin on petitioner's behalf instructing him to send petitioner the file. On 12-30-02, Mangarin
28

wrote the Bar and petitioner that he released the file to petitioner. See Lett's by Pet., Bar, & Mangarin, 9-25-02, 12-30-02, 12-16-02, 12-30-02. Exhs. E 34, E 35, E 36, _____.

Petitioner received the file. The client file has a 5-page "Activity Log" recording Mangarin's representation of petitioner: (Note: The public defender declared conflict of interest on 8-11-95):

- 1) 8-15-95, Mangarin received petitioner's file from the public defender. Mangarin held a telephone conference with petitioner. Petitioner signs Authorization Form to grant Mangarin access to confidential records, hospitals, previous jobs, etc.
- 2) On 9-3-95, Mangarin interviewed petitioner for 2 ½ hours at county jail regarding petitioner's recollecting of instant case, and his exposure to several life sentences under 3-strikes law.
- 3) On 9-15-95, Mangarin appears at Courtroom M-1 for Readiness Hearing without petitioner present. Judge Amos agrees petitioner's case should go to trial.
- 4) On 9-16-95, Mangarin reviews client file in instant case, prepares for trial and prepares witness list.
- 5) Carmen Lopez, Gabriela Murgo, Jesse Guerrero.
- 6) On 12-29-95, Mangarin records the trial and sentence took 48-attorney-hours, and petitioner was sentenced to 35 years to life. End of case.

The 5-page Activity Log indicates Mangarin did not review the prior robbery case file, nor Youmans client file, nor request discovery from the prosecutor concerning the instant case nor the prior robbery case. See 5-page Activity Instant Case SCD112436, 8-15-95 through 12-29-95. Exhs. F 3

7. Prior Robbery Case CR105783

It is necessary to set forth the facts and procedure of prior robbery case. After all the Court of Appeal in its Denial Order D041226 (2-6-03) confirmed two things: (1) the record is silent on Boykin-Tahl waivers; and (2) Haro's exculpatory statement was relevant enough for the Court of Appeal to take judicial notice in search of it.

Petitioner briefly sets forth factual and procedural background of prior robbery case. On 7-20-

1 89, Rafael Haro testified at preliminary hearing that he and Juan Sanchez were setting in Haro's car.
2 Petitioner and an unnamed person approached Haro in the driver's seat. The unnamed person pointed a
3 gun at Haro demanding money and simultaneously petitioner snatched Haro's necklace, took his watch
4 and \$10. Petitioner then pulled Haro from the car and the unnamed person sat in the driver's seat and
5 petitioner in the passenger seat and drove away. Haro could not identify petitioner's accomplice.
6 Haro's car license plate was "Riquito."
7

8 Ramon Cespedes testified at the same preliminary hearing. Cespedes worked at Texaco gas
9 station. A car bearing the license plate, "Riquito," pulled in and petitioner emerged from passenger ~~seat~~
10 pointing a gun demanding money. Petitioner took \$180 from the cash register, got back into passenger
11 seat and the car drove away. Cespedes could not identify the driver.
12

13 It is clear now, the unname person is none other than Jesus H. Lopez. See Lopez declarations.

14 B6, B7, B8.
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Slow Plea in the Prior Robbery

Peggie M. Sirna, recorded the slow plea in 4-pages. On 10-2-89, jury selection began. William D. Mudd, Judge, told prospective jurors petitioner was charged with robbing Haro and Cespedes. Because jury selection did not complete, prospective jurors were told to return the following day to continue jury selection.

The following day, 10-3-89, 3-steps were taken in the slow plea:

Step 1: At 9:40, in open court, the prosecutor, Youmans and petitioner were present. Petitioner signs a jury waiver form. The jury waiver form stated petitioner desired to have the trial court determine guilt or innocence. The prosecutor then dismiss counts 3 and 5 and prosecutor submitted the case on preliminary hearing transcript wherein Haro and Cespedes testified petitioner robbed them.

Step 2: At 10 a.m. trial court reviews transcript during a recess.

Step 3: At 10:30, court convenes with prosecutor, Youmans and petitioner were present. Prosecutor submits the case on transcript. The defense submits. Trial court finds petitioner guilty of robbing Haro and Cespedes.

The last document recording petitioner's conviction of the 2 robberies and 4-year sentence is the abstract of judgment dated 11-2-89 and signed by Peggy Sirna, Clerk. Two "X's" are marked in the box indicating court trial was held.

The minute order dated 10-3-89, however clearly shows the prosecutor submitted incriminating transcript against petitioner. Defense counsel Youmans did not contest the transcript in any manner. Clearly this was a slow plea. What is also clear is the trial court, Youmans, and prosecutor did not advise petitioner, nor did petitioner personally or by signature on a plea form waive his constitutional rights to confront witness, nor against self-incrimination. Petitioner was not aware of the 2 constitutional rights and therefore there was want for said rights because the plea was not voluntary, intelligent, and knowingly. Had petitioner known of such rights, he would not have waived them and

1 instead went to trial. Especially in light of the fact that Haro went to prosecutor's office that morning,
 2 on 10-3-89, the day of trial prior to the slow plea and said he misidentified petitioner. Also Sanchez
 3 statement existed as well.

4 Petitioner discovered Haro's exculpatory statement when the prosecutor disclosed it on 5-21-03.
 5 Mangarin had a duty to examine existing documents lodged at the courthouse used to charge petitioner
 6 with those 2-robberies to determine the validity of that prior and whether any possible grounds existed to
 7 indicate the prior was legally flawed and considering it was unconstitutional file pretrial motion to have
 8 it set aside. See slow plea records, CR105783, 10-3-89. Exhs: B10. Pet's Decl., at # 18,
 9 _____, _____, 3-30-08. Exh. C.
 10 _____, _____, 3-30-08. Exh. C.
 11 _____, _____, 3-30-08. Exh. C.
 12 _____, _____, 3-30-08. Exh. C.

13 D. POINTS AND AUTHORITIES, STANDARD OF REVIEW

14 The AEDPA applies in this habeas corpus proceeding. *Lindh v Murphy* 521 US 320, 336-37.
 15 AEDPA also provides in relevant part, application for writ of habeas corpus on behalf of a person in
 16 state custody shall not be granted with respect to a claim that was adjudicated on the merits in state court
 17 proceeding unless adjudication of the claim: (1) "resulted in a decision that was contrary to, or involved
 18 an unreasonable application of clearly established Federal law, as determined by the Supreme Court of
 19 the U.S." or (2) "resulted in a decision that was based on unreasonable determination of the facts in light
 20 of the evidence presented in the State court proceeding." 28 USC 2254 (d); *William v Taylor* 529 US
 21 362, 405-09.
 22 362, 405-09.

23 Petitioner herein requested but was denied an evidentiary hearing in state court, therefore this
 24 Federal Court may conduct an evidentiary hearing notwithstanding 28 USC 2254 (c); *William v Taylor*
 25 p. 420, 430-32. To establish constitutionally ineffective assistance of counsel, a petitioner must prove;
 26 (1) "counsel's representation fell below an objective standard of reasonableness," and (2) there is a
 27 reasonable probability that, but for counsel's errors, the result of the proceeding would have been
 28 reasonable probability that, but for counsel's errors, the result of the proceeding would have been

1 different. *Strickland v Washington* 466 US 668, 688-694. A reasonable probability is sufficient to
2 undermine confidence in the outcome. *Strickland* p. 694.

3 In petitioner's case, the conflict of interest declared by Vanesian resulted in Mangarin's
4 ineffective assistance resulting in prejudice is presumed when actual or constructive denial of assistance
5 of counsel altogether is legally presumed to result in prejudice. *Strickland*, p.692 hn. 6 citing *U.S. v*
6 *Cronic* 466 US 448, 659 hn. 25.

7
8 Petitioner claims Mangarin constructive failure to review prior robbery case file, Youmans client
9 file, or request discovery from prosecutor amounted to denial of assistance of counsel. The Information
10 charged kidnapping and alleged prior strikes. Petitioner did not know whether the Information was good
11 or bad to prepare a defense. A good defense existed to move to strike the 2 prior robberies. *In Johnson*
12 *v Zerbst* 304 US 458, 463 hn. 1, holds petitioner needed Mangarin's professional hand for a defense and
13 effective assistance at every step in the adverse proceedings.
14

15 *Rompilla v Beard* 545 US 374, 386-87, is a death penalty case, but is illustrative and is authority
16 on trial counsel's duty to defend against prior convictions. Mangarin must obtain information the state
17 has and will use against petitioner. "It is the duty of the lawyer to conduct prompt investigation of the
18 circumstances of the case and to explore all avenues leading to facts relevant to the merits of the
19 case...and...the penalty in the event of conviction. I ABA, Stand's for Crim. Just. 4-4.1 "Counsel must
20 investigate prior convictions that could be used as aggravating circumstances or otherwise come into
21 evidence. If a prior conviction is...legally flawed...Counsel should seek to have it set aside. *Rompilla v*
22 *Beard* p. 587 footnote 7. Setting aside the prior conviction on Boykin-Tahl grounds is not an attempt to
23 reverse the prior conviction, but prevent its use for sentencing purposes. *People v Sumstine* 36 Cal.3d
24 909, 915-16.
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27 To show prejudice under *Strickland* for failure to file a motion to strike prior conviction on
28 *Boykin-Tahl* grounds, petitioner must show (1) had Mangarin filed the pretrial or presentence motion to

1 strike it is reasonable the trial court would have granted as meritorious, and (2) had the motion been
2 granted, it is reasonable that here would have been an outcome favorable to petitioner. *Wilson v Henry*
3 185 F.3d 986, 990, citing *Kimmelman v Morrison* 477 US 365, 373-74.

4 Two cases illustrate and are authority that particular facts and circumstances of a 3-strikes case,
5 will necessitate reasonable investigation. In *Riggs v Fairman* 178 F. Supp.2d 1141, 1147, the court
6 ruled counsel was ineffective for failure to examine defendants rap sheet, failed to ask defendant
7 questions concerning his prior robbery case, and resulted in prejudice because defendant instead of
8 taking the 5-year plea, offered by prosecutor, trial counsel advised him not to and he received 25 years
9 to life under 3-strike law. The Federal Court in *Riggs* reversed holding trial counsel was ineffective that
10 resulted in prejudice for failure to investigate the prior robbery case. The *Riggs* Court cited *People v*
11 *Morgan* 11 Cal.Rptr.2d 502, 506, 509-510. In *Morgan* the defendant made a *Marsden* motion (*People*
12 *v Marsden* 2 Cal.3d 118) complaining his attorney had not done anything at all in 77 days in the case in
13 which he may get 25 years to life under 3-strikes law. The trial court asked counsel "Have you had the
14 opportunity to evaluate whether or not these priors can be attacked in any fashion?" Counsel answered,
15 "Yes." But counsel failed to investigate in the Arkansas prior kidnap convictions that constituted 2-
16 strikes. *Morgan* was sentenced to 25-years to life. The Court of Appeal reversed holding Arkansas
17 prior kidnapping convictions lacked elements to constitute California's kidnapping statute and
18 insufficient to constitute strikes. Trial counsel was ineffective for failure to investigate the prior
19 Arkansas convictions.

20 A review of the trial record is normally necessary to resolve claims of alleged Boykin-Tahl error.
21 If a proper record exists Boykin-Tahl claims can be easily determined as simple as right to counsel
22 claims (*Gideon v Wainwright* 372 US 335) because Boykin-Tahl errors appear plainly on face of record.
23 Any examination will be brief with no delay. *People v Maupin* 74 Cal.Rptr.2d 309, 312-13.

24 Mangarin represented petitioner in 1995 and the prior robbery case file existed. Moreover, E.

1 Neal, Court Reporter, explained the transcript of slow plea existed from 1989-1999. The State Bar
2 explained Youmans worked at Public Defender until 1999. Mangarin should have examined the prior
3 court file, transcribed transcripts, and interviewed Youman to support Boykin-Tahl error. (Exhs.
4 E23, E45.1). The better practice is to file pretrial motion to strike the prior supported by facts,
5 documents, and declarations. This type of collateral attack is much easier than habeas corpus collateral
6 attack considering pretrial motion to set aside alleged priors is not attempt to over turn presumably valid
7 conviction or sentence, but simply to prevent its use at sentencing. However, petitioner now has a
8 higher burden in habeas corpus proceeding after judgment has been imposed.
9

10 The State Court of Appeals (D041226) confirmed the record in petitioner's prior robbery case is
11 silent as to whether or not he was advised of and waived his Boykin-Tahl rights. Petitioner claimed
12 prejudice not merely because the record was silent, but claimed the record does not affirmatively show
13 that petitioner's plea is voluntary and intelligent under the totality of the circumstances, *People v*
14 *Howard* 1 Cal.4th 1132, 1175; and cannot withstand the test set out in *North Carolina v Alford* 400 U.S.
15 25, 32, that petitioner's plea does not represent a voluntary and intelligent choice among the alternative
16 courses of action open to the petitioner.
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18 Petitioner claimed he was neither advised nor personally waived his rights and there was want
19 for constitutional rights rendering his plea involuntary and had petitioner known of his rights he would
20 have went to trial. Especially in light of Haro's statement he mis-identified petitioner. Court of Appeal
21 Justice's Haller, Kremer and McIntyre took judicial notice of the prior robbery court file in search of
22 Haro's exculpatory statement to determine whether Boykin-Tahl error was interwoven with Haro's
23 statement prejudiced petitioner. In its opinion the court of Appeal explained that the record was silent as
24 to whether petitioner was advised of his constitutional rights to confront witnesses and to against self
25 incrimination and that the RT of the slow plea had been destroyed. And that nothing in the record
26 showed Haro recanted. Denial of Habeas Petition, Opin. D041226, 2-6-03. Exh. A7.
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1 Finally, the 6th Amendment guarantees effective assistance of counsel that entails standards
2 sufficient to justify the laws presumption that counsel will fulfill the roll in the adversary process that
3 the Amendment envisions. The proper measure of attorney performance remains simply reasonableness
4 under prevailing professional norms and entails certain basic duties, loyalty and avoidance of...conflict
5 of interest. *Strickland* p. 688 hn. 6, citing *Cuyler v Sullivan* 466 US p. 346.

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7 Vanesian determined a conflict existed and made his declaration "virtually under oath" in open
8 court to Judge Amos. *Mickens v Taylor* 535 US 162, at p. 167-68.

9 Mangarin's appoint was a direct result of the conflict directly connected to the prior robbery.
10 The reasons about the conflict were not merely passive. Vanesian complained his co-worker Youmans
11 was ineffective and possibly could lead to striking those "2-strikes." The record now developed by
12 petitioner indicated 3-red flags sufficient to trigger an examination of the prior robbery court file to
13 disclose: 1) No court trial occurred but instead a slow plea and missing Boykin-Tahl waivers on its face
14 and lead to 2) Sanchez tape recorded statement that petitioner did not rob Haro; and 3) discovery leads
15 to Brady error because the prosecutor withheld Haro's statement. Justice O'Connor elaborated in
16 *Rompilla v Beard*: Counsel's failure to obtain the crucial failed (*Rompilla's* prior case file) was the result
17 of inattention, not reasoned strategic judgment. As a result strategic choices made after less than
18 complete investigation reasonable only to the extent that reasonable professional judgments support the
19 limitations on investigation. *Rompilla* 545 US at p. 395-96; quoting *Strickland* 466 US at 690-91.
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CLAIM II

PETITIONER IS ACTUALLY INNOCENT OF THE PRIOR ROBBERIES OF RAFAEL HARO AND RAMON CESPEDES. THE PRIOR ROBBERIES ILLEGALLY ENHANCE PETITIONER'S CURRENT SENTENCE. CAL. CONST. ART. I, SEC 15; U.S. CONST. AMENDS. 5TH, 6TH, 14TH.

A. Claim of Innocence In Open Court

On 4-23-95, petitioner was charged in the instant case with kidnapping, and allegations that he suffered two prior robberies, and one prior assault W/D/W. Initially, Vanesian represented petitioner, but he declared conflict and Mangarin was appointed. On 9-3-95, Mangarin interviewed petitioner. Petitioner explained Vanesian declared conflict because Dr. Smith's report (dated 8-9-95) disclosed material facts of the prior robberies, specifically, that petitioner was intoxicated and under peer pressure from a friend when the two prior robberies were committed. Vanesian alleged Youmans, co-worker in the public defender's office, was ineffective for failure to present intoxication evidence in the trial court to negate the robberies. During this interview, petitioner also told Mangarin that he did not rob Haro in the prior robbery case. That Haro and Juan Sanchez were in a car and Jesus Lopez walked up and robbed Haro while he sat in the driver seat. Sanchez, the passenger, seen Lopez rob Haro. Petitioner explained he served time in prison for the Haro robbery, but heard through prison grapevine and through Sanchez that Haro went to the courthouse during the time petitioner was being prosecuted for the robberies, and that Haro told the court petitioner did not rob him. Mangarin said he would not investigate the conflict nor petitioner's claim of innocence.

Mangarin told petitioner to testify in the instant case concerning the kidnapping allegations. Explain the amount of alcohol he drank before entering Champion's car. Mangarin told petitioner the prosecutor would cross-examine and question him about the prior robbery case. On 9-25-95, trial began. Champion testified petitioner kidnapped him. On 9-27-95, petitioner testified on his behalf about the kidnapping allegations. Sure enough, the prosecutor changed the focus and questioned

petitioner if he suffered in 1989 two prior robberies. Petitioner said he did not rob Haro in the prior robbery case:

PROSECUTOR: Your prior convictions were for 2 different robberies as well as car theft in 1989, wasn't it?

PETITIONER: It was one case sir.

Q. It was 2-victims, wasn't it?

A. Yes.

Q. it was 2-robberies, wasn't it?

A. Yes.

Q. And car theft?

A. No. I didn't do the first robbery. (Sic, Haro is the first robbery)

Q. And you served time on a robbery you didn't do?

A. Yes.

Q. Well, both of those robberies occurred within 15-minutes of each other didn't they?

A. Yes.

Q. And you're saying you did one but not the other?

A. Yes.

Q. Which robbery didn't you do that you pled guilty for. Which one of the 2-robberies that occurred within 15-minutes of each other?

A. The first one. (Sic, Haro is the first robbery).

RT 288-290, 9-27-95. **Exh. B2**

At the time of petitioner testimony described above, he did not have exculpatory evidence, nor know for certain exculpatory evidence existed to support his claim of innocence. He did not know he could raise an actual innocence claim or attack the prior robbery case on other grounds, i.e., Boykin-Tahl claims in habeas petition or motion. Petitioner told Mangarin what he knew, but Mangarin did not act nor investigate it. Petitioner did not know where Lopez, Haro, or Sanchez lived. Petitioner was then convicted in the instant case of the kidnapping, prior convictions found true, and he was sentenced to 35 years to life. Petitioner appealed.

On 3-7-96, Handy Horiye, appellate attorney, wrote petitioner and asked what "issues" he was wanted to raise for the appeal. Petitioner wrote Horiye and said he did not rob Haro. That Haro told the court petitioner did not rob him. On 6-1-96, and 8-23-96, Horiye wrote petitioner and said he looked in the files but did not find exculpatory evidence to support petitioner's claim of innocence. Horiye said he would not consider that issue or other issues concerning the prior robbery case. Horiye acknowledge a successful attack on the prior robbery case would mean to strike (set aside) the two prior robberies (2 strikes) and thus bring petitioner outside the Three Strikes Law for purposes of 25 years to life sentence. In other words, petitioner would still be subject to Penal Code 667 and 1170.12, but the prior assault and the instant kidnapping case would only mean two strikes at the most. See Horiye Letters, 3-7-96, 8-23-96. **Exhs. E, E2.**

On 10-25-96, the Court of Appeal filed its unpublished opinion affirming the instant conviction, but vacating the sentence and remanded the case for re-sentence. On 6-12-97, at re-sentence, the trial court allowed petitioner to address the court on his behalf. Petitioner apologized for the instant offense and again declared he did not rob Haro:

Petitioner: "Yes, the crimes in 1989 happened. But that was not me that started everything.

That was a friend of mine. And I was found guilty."

RT 19, 6-12-97. **Exh. B9.**

The trial court then sentenced petitioner to 26 years with 80%. (Relying on the robbery of Haro to double the 8-year upper base term for kidnapping, and adding two consecutive 5-year priors). On appeal the second time, Horiye represented petitioner, and only raised the issues that the trial court erred in selecting the 8-year upper term for kidnapping without weighing mitigation against aggravation. On 3-25-98, the Court of Appeal filed an unpublished opinion affirming the sentence.

1. *The Prior Robbery Case CR105783.*

It is necessary to set forth the evidence used to convict petitioner. But other evidence when taken into consideration could help petitioner in proving his actually innocent of the robberies. The

only evidence used to convict petitioner was the preliminary hearing transcript. Haro testified he and Sanchez were sitting in Haro's car. Petitioner and another person came up to the driver seat. The person pointed a gun at Haro and demanded money. Petitioner snatched Haro's necklace, took his watch, and \$10. Petitioner pulled Haro from the car. The other person sat in Haro's driver seat and petitioner went around and sat in the passenger seat. The car drove away. Haro identified petitioner, but could not identify the other person (driving the car). Haro's license plate was "Riquito."

Ramon Cespedes testified he worked at Texaco Gas Station. A car pulled and petitioner got out of the passenger seat, pointed a gun at him, and demanded money. Petitioner took \$180 from the cash register and back into the passenger seat and the car drove away. Cespedes could not identify the driver. The license plate was "Riquito." Preliminary Hearing Transcript, 4-5, 21-25, CR105783. **Exh. G.**

Immediately after the robberies, Officer Eisengna #3957 received a radio call that Officers Filley #4297 and Swilley #4252 recovered Haro's car. Eisengna told the officers to impound the car for prints. Filley searched the car and found five small ziplock baggies of marijuana on the passenger floorboard. Detective Sullivan lifted prints from Haro's car and from the baggies.

Officer Aguirre #3202 interviewed Haro and Sanchez concerning the robberies and baggies of marijuana. See Police Report (Excerpts), CR105783, Prints lifted and baggies of marijuana. **Exhs. G1.**

On 10-3-89, the day scheduled for jury trial, specifically, at 9:40 a.m., in open court petitioner signed a jury waiver form and waived jury. The prosecutor dismissed two counts (receiving stolen property, and discharging a gun) and the prosecutor submitted the case to the court based on the preliminary hearing transcript. The defense submitted too. The court found petitioner guilty of robbing Haro and Cespedes. There are only four (4) court documents that record the slow plea . . . two minute orders, jury waiver, and abstract of judgment. See Slow Plea Records. **Exhs. B10**

2. Petitioner's Investigation In Support of His Innocence

Petitioner explains in the Application for Equitable and Statutory Tolling, at pages 7 through 14, after direct appeal, 3-25-98, he did not have any access to any records of the instant case, nor of the prior robbery case. Petitioner wrote numerous letters to gather records. The public defender would not answer petitioner's letters. And even went as far as saying that they did not represent petitioner. (See 9-19-02 Public Defender Memo **Exh. E32**). Petitioner studied and learned to raise a claim of innocence and filed a motion for discover, settled statement, and petition for mandate in efforts to gather records and exculpatory evidence. In October 2002, petitioner filed a motion in Superior Court for order upon public defender to obtain the client file. The superior court said it was the "wrong forum" in which to seek assistance to obtain the file. This is mis-leading petitioner. (See Denial of Motion 11-13-02, **Exh. A6**).

In November 2001, petitioner was transferred from "D" yard to "B" yard because a prison riot. Petitioner met up with Sanchez, eyewitness to Haro's robbery. Petitioner received a declaration from Sanchez to support petitioner's claim of innocence. **Exh. B3**. (11-15-01).

On 7-19-02, the Superior Court denied petitioner's first habeas petition claiming innocence. On 11-25-02, petitioner filed a like habeas petition in the Court of Appeal claiming innocence supported by Sanchez' declaration. Petitioner made the bald assertion that Haro recanted his preliminary hearing identification of petitioner. The Court of Appeal denied petitioner claim of innocence because it was "unsubstantiated." However, the Court of Appeal had strong interest in Haro's alleged recanted testimony. In search of this evidence, petitioner contacted the district attorney requesting exculpatory evidence. On 5-21-03, the district attorney disclosed in a letter that Haro went to their office on the day of trial (10-3-89) before trial (slow plea) and Haro said he "mis-identified" petitioner at the preliminary hearing. In June 2003, the public defender disclosed a tape-recording by Sanchez that petitioner did not rob Haro, that some other person with brown hair robbed Haro. In May 2004, July 2006, and November 2006, Lopez submitted declarations and fingerprints that he alone

robbed Haro. The purpose of Lopez' prints is to compare with the prints lifted from Haro's car. Detective Sullivan lifted the prints. Petitioner's prints were never found in Haro's car.

It is clear now the person that robbed Haro is Lopez. Cespedes, gas station clerk, could not identify the driver of the car. But it was Lopez that was driving Haro's car. And Lopez ordered petitioner to rob the gas station at gun point. See Exculpatory Evidence: **Exhibits B2 - B9**.

3. Brady v Maryland Error, False Evidence

Jury selection was scheduled for 10-3-89. At this point, the prosecutor relied on Haro's preliminary hearing testimony that incriminated petitioner. No other evidence incriminated petitioner. However, on 10-3-89, in the morning before court appearances, Haro went to the district attorney's office and said he mis-identified petitioner at preliminary hearing. That very morning 10-3-89, at 9:40 a.m., the district attorney already knew Haro mis-identified petitioner, yet did not turn this exculpatory evidence over to petitioner, nor inform the trial court. This in essence transformed Haro's testimony into false evidence. This could have exonerated petitioner. See Exhs. B4, B10.

B. Points and Authorities, Standard of Review

In *Schlup v Delo* 513 US 298, 315, 324, 327, describes a "gateway" claim of innocence, alternatively called "actual innocence" exception. This allows petitioner who can demonstrate his innocence to have his otherwise procedurally defaulted claims heard on the merits. To be credible such a claim require petitioner to support his allegations of constitutional error with new reliable evidence - - whether it be exculpatory scientific evidence, trustworthy eyewitness accounts, or critical physical evidence - - that was not presented at trial. Schlup does not require the evidence in fact exonerate petitioner, rather, petitioner must demonstrate it is more probable than not that no reasonable juror would find him guilty beyond a reasonable doubt in light of the new evidence.

A core function of the federal writ of habeas corpus is the protection of prisoner's from unjust incarceration and the correction of miscarriages of justice. Noting "concern about the injustice that results from the conviction of an innocent person has long been at the core of our criminal justice system." *Schlup* 513 US p. _____. This District Court should hold an evidentiary hearing to develop a factual record because it is faced with a colorable / credible claim of innocence. *Majoy v Roe* 296 F.3d 770, 777; citing *Schlup* 513 US at p. 332.

CLAIM III

**PETITIONER WAS DENIED A FAIR TRIAL. CAL.CONST. ART. I, SEC. 15; U.S. CONST.
AMENDS. 5TH, 6TH, 14TH**

Introduction

Petitioner claims five cumulative errors denied him a fair trial. 1). He was denied opportunity to defend against charges; 2). Limited instruction to admit Petitioner's intoxicated state became meaningless because nearly everytime counsel questioned witnesses on "critical" intoxication evidence, the prosecutor objected and court sustained; 3). Evidence entitled Petitioner a jury instruction CALJIC 9.58; 4) insufficient evidence to support kidnapping; and 5) the passions and emotions of jurors were swayed because trial court read the "not guilty" verdict of O.J. Simpson murder trial.

1. Denied Opportunity To Defend Against Charges

The information charged: Count 1 kidnapping to commit robbery; Count 2 kidnapping; Count 3 attempted carjacking; and Count 4 assault W/D/W. Vanesian's strategy to defend Petitioner was to call Dr. Smith, psychiatrist, to explain Petitioner's intoxicated state prevented him from forming "specific intent" Dr. Smith concluded:

"DISCUSSION: The defendant was clearly under the influence of alcohol at the time of the instant offense, with severe intoxication documented by several witnesses. With his history of recurrent alcohol blackouts it is likely that he was indeed suffering an alcoholic blackout at the time of the instant offense. He appears to be quite credible and consistent in his description of the events leading up to the offense, and in my opinion, was experiencing an alcoholic blackout and met the legal criteria for unconsciousness at the time of the instant offense."

Dr. Smith's Report, page 4, 8-9-95. Exhibit B1

However, Vanesian declared conflict and Mangarin was appointed to represent Petitioner. Mangarin did not change tactics, and relied entirely on Dr. Smith's report to defend Petitioner.

Further, it is clear from Mangarin's client file (Case Activity Log) he did not investigate other avenues to defend against kidnapping. See Mangarin's client file. **Exh. F3**.

At the open of trial, the court asked Mangarin to explain the defense evidence and his theory. Mangarin explained he intended to call Dr. Smith, expert witness, to explain Petitioner was in such a drunken stupor that:

- 1). He could not form the specific intent to commit these crimes;
- 2). He could not instill fear into Champoin; and
- 3). Explain to the jury that Petitioner aimlessly was in Champion's car. The jury could come to a conclusion of why Petitioner was in Champion's car and not convict Petitioner of any charges.

Once the prosecutor heard petitioner's only line of defense was to call Dr. Smith's to testify, the prosecutor purposely dismissed the specific intent crimes for the sole purpose to keep Dr. Smith or his report from entering into evidence. Keeping in mind, this was the very day trial began, 9-25-95, this dismantled Petitioner's only defense. The court then ruled Dr. Smith could not be called citing voluntary intoxication is not a defense to kidnapping and assault (general intent) crimes. Mangarin countered this ruling was fundamentally unfair because the prosecutor and court were using procedural ~~maneuvers~~ to keep out Petitioner's "only line of defense?" **RT 17-28**.

So with the defense being wiped out, Mangarin making no attempt to regroup and develop a new defense even though one existed. Such defense was the fact Champion was gay and he drove Petitioner in a drunken stupor. The inference being Champion picked up Petitioner. RT17. Thus, Petitioner did not have opportunity to defend against the charges.

2. Limited Instruction Became Meaningless

Champion testified that the time Petitioner was in the car. Petitioner did not appear intoxicated. The trial court asked Mangarin how was intoxication relevant to the general intent crimes. Mangarin explained witnesses saw Petitioner staggering drunk and slurring his speech, this would impeach

Champion. The trial court said Petitioner must testify first. And it would allow intoxication evidence for the limited purpose:

- 1). To assist in evaluating the credibility of Champion;
- 2). To assist in evaluating the credibility of defendant; and
- 3). To assist in determining whether the defendant's appearance and actions instilled fear in the mind of Champion.

RT 296, 345, 443. CT 97. (Limited Instruction). **Exh. H.**

However, the Limited Instruction became meaningless because when counsel tried to cross examine witness about Petitioner's drunken stupor, physical inability, and slurred speech, the prosecutor objected and the court sustained. On six occasions when Mangarin cross-examined Champion, specifically on Petitioner's intoxication, slurred speech, drunken stupor, the prosecutor objected and court sustained. When Marquez testified, on six occasions when Mangarin cross-examined specifically about Petitioner's "staggering walk," glassy eyes, slurring, the prosecutor objected and the court sustained. RT 148 – 151; RT 166 – 177. Exh. H4, ____.

Moreover, the Limited Instruction was to allow a fair trial. Witnesses saw Petitioner staggering drunk. This instruction was supposed to allow the jury to hear whether Petitioner had physical limitations to negate instilling fear into Champion. Guerrero and Murgu testified Petitioner drank. Marquez stated in the investigation that Petitioner was staggering. But jury never heard how Petitioner's physical condition was in direct contrast to Champion's testimony. RT 263 – 250.

3. Petitioner Was Entitled to CALJIC 9.58

CALJIC 9.58 states :

"It is a defense to the charge of kidnapping that a defendant lacked general criminal intent. There is no general criminal intent if a defendant entertained a reasonable and good faith belief that the person alleged to have been kidnapped voluntarily consented to accompany the defendant and to the movement involved in the purported kidnapping. If from all the evidence

you have a reasonable doubt that the defendant harboured general criminal intent at or during the time of the movement, you must find him not guilty of kidnapping.”

This is the jury instruction the trial court denied petitioner. RT 367. CT 80. **Exh.** H1

Another part of law that is relevant is Pen.C. 20, “in every crime there must exist a union, or joint operation of act and intent, or criminal negligence. So basic is the requirement of union of act and wrongful intent that it is an element of every crime.” Petitioner entered Champion’s car on 65th and Imperial and told him to drive. Champion drove two long blocks, but then he formed a plan to drive to his house. In fact at Scimitar (the street Champion lived on), Champion turned left. Petitioner just sat there in the passenger seat and did not get upset. Unknown to Petitioner, two bystanders stood on the side of the road. Petitioner called out to both bystanders to gain their attention. The 1st bystander looked at petitioner, but only frowned and did not respond. When Petitioner exited Champion’s car, he went to the 2nd bystander and asked for a ride home. RT 67 – 70; 148 – 151. **Exh.** H2, H3.

Petitioner testified and the prosecutor cross-examined him. When questioned whether or not he commanded Champion to drive, Petitioner denied he commanded Champion to drive. This is a denial of a kidnapping element. RT 280 – 287. **Exh.** H5

Several factors tie in that entitled Petitioner to CALJIC 9.58, first 9.58 highlights that the jury can consider whether Petitioner lacked general criminal intent, if from all the evidence the jury has reasonable doubt, and Petitioner lacked and / or did not harbor general criminal intent at or during the time of movement, certainly, there is evidence that the union of criminal intent was broken (Pen.C. 20), when Petitioner wanted to attract attention of bystanders on two occasions.

4. Insufficient Evidence To Support Kidnapping

Champion’s free will was not overborn by the use of fear or threat of force. Petitioner did not kidnap Champion. Kidnapping does not speak in terms of movement of any specific or exact distance

and nothing in the statutory language limits the asporation element solely to actual distance. In kidnapping, a primary reason forcible asporation is proscribed by kidnapping statues is the increase of risk to Champion because of the . . . diminished likelihood of discovery The totality of circumstance should be taken into consideration.

Some of the evidence refutes the elements necessary to accomplish kidnapping. The prosecution largely focused on three elements to convict. 1) Petitioner instilling fear into Champion; 2) Movement without consent; and 3). Movement was substantial, not trivial or slight. Meeting these elements amount to kidnapping which is a general intent crime. But Petitioner claims he did not have general criminal intent. The state is required to prove "every ingredient of an offense beyond a reasonable doubt." When taken as a whole, Petitioner not caring where Champion was driving, Petitioner calling out to people is strong facts Petitioner was not kidnapping Champion.

5. The O.J. Simpson "Not Guilty" Murder Verdict Inflamed Passions of Jury

It was 9:00 a.m. and the trial court told both prosecutor and defense attorney, outside the presence of jury, that the O.J. Simpson murder trial verdict was to be announced at 10:00 a.m. The court said it had no doubt the jury in Petitioner's case had O.J.'s case in the front of their minds. So it intended to tell the Petitioner's jury.

It was now 9:15 a.m. and the jury was present to hear closing arguments in Petitioner's case. The court told the jury it would hear closing arguments and also told them the O.J. murder case was to be announced at 10:00 a.m. The court told the jury because it was such a big case it would monitor O.J.'s case and announce the murder verdict.

The prosecutor and defense counsel gave their closing arguments. Immediately thereafter (but before deliberations) the trial court began again with the O.J. verdict. The trial court began:

"Irrespective of your feeling on that verdict, whether you think it's good or bad or whatnot, I want you to put that case aside...The verdict in the Simpson matter was "not guilty"."

The 12 jurors (nine of which were white, respectively, and 3 hispanic) in Petitioner's case stood up and erupted in hollering, unbelief, and visibly displayed their bias and inflamed passions. Ironically, the prosecutor (also white, respectively) also stood up and was hitting his hands on the table yelling, "this is injustice, O.J. was guilty."

Petitioner, Hispanic and minority, deserved impartial, fair-minded jurors. Not people who visibly displayed their anger concerning another case that no doubt angered them. Moreover, Champion himself is white, respectively. The O.J. Simpson murder case was a controversial racial case not only in San Diego, Los Angeles, but also across the U.S. The T.V., and newspapers front pages showed barricades separating people along racial lines. Petitioner claims the jurors deliberated his case with emotions and passions inflamed that tainted and swayed against Petitioner. They did not deliberate the case with a clear mind being impartial. RT 384 – 388, 429 – 430, **Exhs.** H6, H7.

CLAIM IV.

PETITIONER'S SENTENCE IS ILLEGAL AND UNCONSTITUTIONAL. CAL.CONST. ART. I, SEC. 15; U.S. CONST. AMENDS. 5TH, 6TH, 14TH

Introduction

The trial court struck two priors in the interest of justice. Petitioner does not minimize the instant offense, and recognizes he suffered two prior robberies, and one prior assault W/D/W. However, like the State and Trial Court relied on instant and prior offenses in prosecuting and sentencing petitioner; petitioner is also entitled to consideration of valid factors to arrive at a constitutional sentence. Refusal to consider personal characteristics of petitioner and factual matters of law in imposing sentence raises serious constitutional questions.

Issues: 1) the trial court struck prior strikes, but did not weigh mitigants and aggravants in selecting upper term. Six mitigants outweigh two aggravants. Moreover, it is illegal to use same facts to aggravate base term and also as enhancements. 2) The prior assault W/D/W is not a serious felony; and 3) At the time of "Freeze Date" June 30, 1993, petitioner's assault W/D/W was not listed as serious felony.

A. Striking Priors In The Interest of Justice

Petitioner was sentenced to 35-years-to-life. The appeal's court affirmed conviction, but vacated sentence. On remand, counsel filed Romero/Mitigation Motion to strike priors. Counsel reminded the court it said if the law changed (Romero) it would take another look at the case. Counsel said two strikes arose out of the prior robbery case, and one strike from prior assault W/D/W case. During 18-months on appeal, petitioner made every effort to show he could rehabilitate by participating in self-help programs.

Prior to incarceration in the instant case, for a period of three years, petitioner was employed, cared for his family (wife & children), and his elderly mother Carmen Lopez. The parole agent, family and friends wrote support letters. Petitioner moved from San Diego to Bakersfield to make a new productive life. He voluntarily took anti-abuse to curb drinking alcohol.

Trial counsel fairly summarized the facts of the instant offense, explaining petitioner was kicked out of the bar because he was too intoxicated, and within five minutes jumped into Champion's car demanding he drive forward. Essentially, Champion drove to his own house. During the four-block drive, petitioner called out to two separate by-standers to gain their attention. Petitioner told Champion to stop and back up to the 2nd by-stander. Champion refused, and petitioner punched him. Petitioner exited the car and went back to the 2nd by-stander (Jesse Marquez) and asked for a ride home. This was the basis for the instant kidnapping conviction in the technical sense. On the flip side, petitioner was in a extreme state of intoxication aimlessly in Champion's car.

Trial counsel explained Dr. Smith was scheduled to testify on petitioner's behalf, but was prevented due to technicalities. However, a new psychological report by Dr. DiFrancisca detailed petitioner's alcoholism and ability to reform.

Finally, counsel asked the trial court to strike two strikes, but he mis-quoted sentence choices. Counsel mistakenly thought five years was the low term for kidnapping. Five years doubled up, and two consecutive 5-year prior for a total of 20 years instead of 26 years. RT 1-9. The prosecutor acknowledged petitioner was employed, supported his family, and petitioner had "redeeming qualities and that he did seem to be a resourceful and good person when sober." But nevertheless urged the court not to strike priors. RT 11-16.

1. Invalid Probation Report

At the re-sentence in 1997, petitioner did not have the benefit of a new probation report outlining mitigants and aggravants. The trial court relied on the original 1995 Probation Report,

"SENTENCING DATA:

"The judge made a true finding on the first, second, and third strike priors pursuant to PC 667 (b) - (1). There is only one sentence choice available to the Court, that being an indeterminate term of 25-years-to life. Thus, there is no need to cite mitigants or aggravants."

Probation Report, pg. 11, CT 53. Exh. H 8.

Petitioner claims the sentence is illegal so he sets forth the facts considered in re-sentence:

"All right. This is a difficult case. As everyone has acknowledged in their statements, there is an overriding severe alcohol problem and that doesn't provide Mr. Salceda with any type of excuse.

"What I'm going to do in this case is that I'm going to strike two of the priors. I'm going to strike the 2nd and 3rd priors for the following reasons: With respect to the 2nd prior, that occurred at the same time the first prior occurred. That was on the same date is what I'm referring to. In view of the age of the defendant and the age of those priors, the court finds it more appropriate to treat that as one strike, so I'm striking the 2nd strike. With respect to the 3rd prior conviction. That's the 1993 prior -- I have looked at the sentence and it appears the defendant did become engaged in a confrontation with the victim and swung a brick at him. I'm going to strike

that strike. I don't feel the facts giving rise to that offense are sufficient to justify that as a 2nd or 3rd strike.

That leaves me with one strike and the next is to select the appropriate term. This is a serious charge. It's kidnap and an appropriate term is the upper or aggravated term for the following reasons:

1. The defendant was on probation when it occurred; and
2. The defendant has a serious and lengthy criminal past.

For reasons, I feel that the upper term in the appropriate term. The upper term is 8-years and it must be doubled and that makes it 16-years. The two serious felony priors this court feels are appropriate and they add five years each. The final sentence is 26-years."

RT 19-20, 6-12-97. Exh. B9.

2. Mitigation Outweighed Aggravation

Weighing the two aggravating factors against six valid mitigating factors petitioner did not receive due process consideration:

Mitigation

4.423(a)(4)
criminal conduct partially
excusable for reason not
amounting to defense
(intoxication)

4.423-(b)(2)
petitioner was suffering
from mental and physical
condition reducing
culpability for crime
(intoxicated stupor)

Aggravation

4.421(b)(4) Petitioner was
on probation when crime was
committed

4.21(b)(2) Petitioner had
serious and lengthy criminal
past

Valid Mitigation Factors Under:

Rule 4.408(a)

The Commentary Notes in Rule 4.408(a) make reference and cites Pennsylvania v Ashe 302 US 51, 55; and Gregg v Georgia 428 US 153, as guidance and authority. The record in petitioner's instant case shows (CT 22-64):

1. Petitioner was pursuing education and rehabilitation for alcoholism;
2. Petitioner was baptized in prison;
3. Petitioner was employed during the time of instant offense and supporting his family;
4. Petitioner had support letters from family and friends regarding drinking problem and that he was a hard worker; and
5. Petitioner was genuinely remorseful.

All of the above factors are significant in mitigation.

Petitioner claims had the trial court weighed all the factors properly it would have selected the middle term instead of the upper term.

///

B. The 1993 Prior Assault With Deadly Weapon (W/D/W) Conviction
Is Not A Serious Felony

On 5-17-95, at arraignment the Information charged kidnapping and allegation petitioner suffered two prior robberies and one prior Assault W/D/W. Petitioner pled not guilty and denied the allegations. After jury trial began, but before deliberations, the trial court took from petitioner a waiver of jury trial on the prior convictions:

Court: Mr. Salceda, do you understand with respect to trial on the priors, in the event you were found guilty on matter, jury would then be reconvened and you would have a right to have the jury determine:

1. Whether or not the prior offenses were committed, and
2. Whether or not you were the person committing the offenses?

Do you understand that right?

Petitioner: Yes.

Court: Do you give up and waive your right to a jury trial on the priors?

Petitioner: Yes.

RT 386-387; CT 225. Exh. H6.

The jury thereafter found petitioner guilty of the kidnapping. The following day the trial court found true two prior robberies and one prior assault W/D/W. The record is clear, petitioner did not admit the prior convictions.

1. The facts of the Prior Assault W/D/W

On 7-2-93, a "Complaint" was filed charging petitioner with Assaulting Ronnie Steiner with a deadly weapon and by means of force likely to produce great bodily injury. And personal use of a deadly weapon. Pen. Code 245(a)(1); 1192.7(c)(23).

On 7-14-93, two weeks later, petitioner pled guilty and signed a change of plea form to assault W/D/W and admitted personal use of a deadly weapon. Because a preliminary hearing was not held, it appears the police report was the basis for the factual allegations. The police report:

Cesar Corrorubias argued with three men concerning a "fender bender" car accident. Corrorubias, apparently upset, crossed the street and called petitioner. Petitioner was at Eddie Gonzaba's house drinking beer. Patrick Pimental was with petitioner. Corrorubias requested petitioner to cross the street to confront the three men. Pimental told Corrorubias that petitioner was intoxicated. Corrorubias persuaded petitioner and they crossed the street and a "confrontation" ensued. Petitioner swung a brick at Steiner but did not hit him. The police arrived and arrested petitioner.

The Three Strikes Sentencing

Defense counsel in the instant case called Corrorubias to be present at the Three Strikes Sentencing. Mangarin argued a confrontation ensued between the three men and petitioner and Corrorubias was there at the incident. Mangarin explained to the trial court that the 1993 prior assault W/D/W case was a "defenseable case." That petitioner picks up a brick and a half block away, three men with sticks, there is a stand-off, and petitioner puts the brick down and is charged with the assault W/D/W.

C. June 30, 1993 "Freeze Date"

Petitioner was alleged to have committed the prior assault W/D/W on June 30, 1993. Relevant here is that "June 30, 1993" is the "Freeze Date" as what was and what was not a serious felony for purposes of enhancements under the old law Pen.C. 667 and 1170.12, and the new Three Strikes Law Pen.C. 667(b)-(1).

Petitioner claims herein that the particular prior assault W/D/W he was charged with and subsequently convicted of on July 14, 1993 in prior conviction case no. CR140382 ... is not a serious felony, nor a strike because it was not listed as such before or on June 30, 1993. See People v Morgan 111 Cal. Rptr.2d 502, 508 footnotes 3 and 4, which explains the freeze date supporting petitioner's claim. See Complaint Summary CR140382, alleging the assault W/D/W was committed on June 30, 1993. Documents used to prove the prior assault W/D/W. Exhs. B11.

CONCLUSION

For the foregoing reasons set forth in this petition for writ of habeas corpus, petitioner respectfully requests this Honorable Federal Court grant the claims herein.

PRAYER FOR RELIEF

Wherefore, petitioner prays this Court:

1. Grant and issue the writ of habeas corpus;
2. Grant application for equitable and statutory tolling;
3. Order an evidentiary hearing;
4. Order to show cause;
5. Appoint counsel for petitioner; and
6. Grant any other relief this Court deems just, proper, and in the interest of justice.

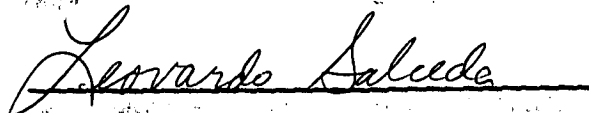
VERIFICATION

I, LEOVARDO SALCEDA, declare as follows:

I am the petitioner in the above action. I have read the foregoing application for equitable and statutory tolling, and petition for writ of habeas corpus and the facts stated therein are true to my own knowledge, except as to matters that are therein stated on my own information and belief, and as to those matters I believe them to be true.

I declare under the penalty of perjury that the foregoing is true and correct and that this declaration was executed at Chuckawalla Prison in Blythe, California, on June 6, 2008.

Respectfully submitted,

A handwritten signature in cursive script, reading "Leovardo Salceda", is written over a horizontal line.

Leovardo Salceda

In pro se.

That was the basis of the assault W/D/W. RT 666-667, 12-29-95.

Exh. F2.

On 6-12-97, a year and half later, at the Romero Motion Hearing (Re-Sentencing), the trial court struck the prior assault W/D/W case on the following grounds:

Court: "With respect to the 1993 prior - - I have reviewed the facts and I have looked at the sentence and it appears that the defendant did become engaged in a confrontation with the victim and did swing a brick at him. I'm going to strike that . . . strike. I don't feel the . . . facts giving rise to that offense are sufficient to justify as a 2nd or 3rd strike."

RT 19, 6-12-97. Exh. B9.

Against the factual disclosure of the 1993 prior assault W/D/W conviction, petitioner claims as the case law holds:

"One may violate Pen. Code 245(a)(1) in two ways that does not qualify as a "serious" felony under 1192.7(c)(23). First, one may aid and abet the assault without personally inflicting great bodily harm, or One may commit the assault with force "likely" to cause great bodily injury without actually causing great bodily injury or using a deadly weapon."

See People v Rodriguez 17 Cal.4th 253, 261-62; People v Cortez 73 Cal.App.4th 276, 280-81.

1 STATE OF CALIFORNIA)
 2 COUNTY OF RIVERSIDE) ss

PROOF OF SERVICE BY
 PERSON IN STATE CUSTODY

3 I, Leovardo Salceda, the undersigned, certify, and
 4 do declare that I am over the age of 18 years, incarcerated at Chuckawalla
 5 Valley State Prison, located at Blythe, California and a party/ not a party
 6 to the attached foregoing cause of action. On 6-6-08,

7 I did serve a true copy of:

- 8 *) Petition for Writ of Habeas corpus 28 U.S.C. 2254 By A Person In
 State Custody ;
- 9 *) Application for Equitable and Statutory Tolling 28 U.S.C. 2244 To Hear
 Merits of Petition For Writ of Habeas Corpus
- 10 *) Exhibits A - H8 *) Motion/Declaration To Proceed In Forma Pauperis
 (incomplete)
- 11 *) Request To Proceed Before A Magistrate Judge, And
 Thereafter Issue A Report & Recommendation To District Judge

12 [] by depositing it in a prison mail box in a sealed envelope, or [✓] by
 13 handing it to institutional staff in a sealed envelope, along [✓] with Inmate
 14 Trust Account Withdrawal Order Form attached to it requesting that postage be
 15 fully prepaid, or [] with postage affixed thereto for deposit in The United
 16 States Mail pursuant to California Code of Regulations Sections 3142 and 3165;

17 Addressed to the following: W. Samuel Hamrick, Jr.
 18 Clerk of Court, U.S. District Court
 19 Southern District of California
 20 880 Front Street, Room 4290
San Diego, CA 92101

21 Intended place of mailing: U.S. Post Office, at Blythe, California.

22 I further declare under penalty of perjury that the foregoing is true and
 23 correct to the best of my knowledge, and belief. Executed on 6-6-08,

24 _____

25

26

27

28

///

Leovardo Salceda
 PETITIONER/DECLARANT IN PROPER

JS44

(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1987, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I (a) PLAINTIFFS

Leovardo Salceda

Salazar, et al

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Riverside
(EXCEPT IN U.S. PLAINTIFF CASES)

FILING FEE PAID	
Yes	No
HFP MOTION FILED	
Yes	No
COPIES SENT TO	
Court	ProSe

FILED
JUN 10 2008
CLERK, U.S. DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA BY <u>RSV</u> DEPUTY

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Leovardo Salceda
PO Box 2349
Blythe, CA 92226
J-90933

ATTORNEYS (IF KNOWN)

'08 CV 1037 IEG PCL

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | | | |
|---|---|---|---|
| Citizen of This State | <input type="checkbox"/> 1 <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

28 U.S.C. 2254

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> Marine <input type="checkbox"/> Miller Act <input type="checkbox"/> Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury-Medical Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. <input type="checkbox"/> Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (13958) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(e)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reappointment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Tort to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input checked="" type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights			

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER f.r.e.p. 23

DEMAND \$

Check YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☐ NO

VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE

Docket Number

DATE 6/10/2008

SIGNATURE OF ATTORNEY OF RECORD

R. Miller

CR

Exhibits

- A Direct Appeal Opinion in Court Of Appeal, D025258, 10-25-96
- A1 Direct Appeal Opinion in Court Of Appeal, D029086, 2-25-96
- A2 Motion for Discovery in Superior Court, Denied, 9-14-01, Prior Robbery CR105783
- A3 Motion for Settlement in Superior court, Denied, 11-30-01, Prior Robbery CR105783
- A4 Reconsider Motion for Settled Statement in Superior Court, Denied, 3-27-02, Prior Robbery CR1057883
- A5 Habeas Petition in Superior Court, Denied, 7-19-02, Prior Robbery CR105783
- A6 Motion for Order for Public Defender to Give Petitioner Client File in Superior Court, Denied, 11-12-02, Prior Robbery CR105783
- A7 Habeas Petition in Court of Appeal, Denied, 2-6-03, D041226
- A8 Petition for Writ of Mandate in Court of Appeal, "Denied as Moot" 6-17-03
- A9 Motion for Relief Based on Newly Discovered Evidence, Denied, 8-20-03, Prior Robbery CR105783
- A10 Request for Assistance with Innocence Project, Denied, 1-1-04, Prior Robbery CR105783
- A11 Habeas Petition in California Supreme Court, Denied on Procedural Grounds, S125591, 6-8-05
- A12 Habeas Petition in Superior Court, Denied, HC17070(2nd), 11-2-05
- A13 Habeas Petition in Court of Appeal, Denied, D048000, 4-20-06
- A14 Letter for Discovery in Superior court, 10-16-06, Prior Robbery CR105783
- A15 Motion for Discovery in Superior Court, Denied, 10-16-06, Prior Robbery CR105783
- A16 Habeas Petition in California Supreme Court, Denied on Merits, S150480, 9-25-07
- A17 Habeas Petition in Court of Appeal, Denied on Procedure Grounds, D052224, 4-9-08
- A18 *Coversheet of Petition for Review, S162914, Filed 8-23-08.
It is Pending.*

FILED
STEPHEN M. KELLY.

'96 OCT 25

COURT OF APPEALS
FOURTH DISTRICT

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

LEOVARDO SALCEDA,

Defendant and Appellant.

D025258

(Super. Ct. No. SCD112436)

APPEAL from a judgment of the Superior Court of San Diego County, E. Mac Amos, Jr., Judge (Judge of the Municipal Court of the San Diego Judicial District sitting under assignment by the Chairperson of the Judicial Council). Affirmed in part and reversed in part with directions.

Leovardo Salceda was convicted by a jury of kidnapping and exhibiting a deadly weapon. The court thereafter found true one prison prior within the meaning of Penal Code¹ section 667.5, subdivision (b), two serious felony prior convictions within the meaning of section 667, subdivision (a)(1), and three

¹ All statutory references are to the Penal Code.

Exhibit A

serious/violent felony prior convictions within the meaning of section 667, subdivisions (b)-(i).

Salceda was sentenced to an indeterminate term of 25 years to life for kidnapping plus 10 years for the serious felony prior convictions.

Salceda appeals, contending the court erred in refusing a requested jury instruction on good faith belief in consent, in imposing consecutive sentences for the enhancements, and that the case should be remanded to permit the court to exercise its discretion in light of *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497. We will vacate the sentence and remand for resentencing, otherwise we will affirm the conviction.²

STATEMENT OF FACTS

We incorporate the statement of facts from the respondent's brief as an accurate summary of the evidence.

Russell Champion lived in Encanto. On April 23, 1995, at approximately 5 p.m., Champion was returning home in his 1984

² The Attorney General concedes the sentence must be vacated and the case remanded for resentencing in light of *Romero*. We are confident on remand the trial court will follow the guidelines set forth in *Romero* and therefore find no need to discuss the issue further. (See also *People v. Dent* (1995) 38 Cal.App.4th 1726.)

As to the contention the trial court erred in adding consecutive terms for the serious felony prior convictions, we will leave that discussion until the trial court completes its action on the prior convictions and resentence. For the guidance of the court we refer the trial court to *People v. Ramirez* (1995) 33 Cal.App.4th 559, *People v. Anderson* (1995) 35 Cal.App.4th 587, *People v. Turner* (1995) 40 Cal.App.4th 733, and *People v. Purata* (1996) 42 Cal.App.4th 489.

Crown Victoria after picking up dinner. Champion was alone in the car with the windows down and the doors locked. Champion reached the intersection of 65th Street and Imperial, which had trolley tracks crossing the roadway. Because traffic was heavy, Champion's car was barely moving. Champion looked and saw Salceda jogging through traffic heading directly toward his car. Salceda ran in front of Champion's car. Champion stopped his car two to four feet away from Salceda. Salceda stopped and began gesturing to signify that Champion had almost run into him. Champion waited until Salceda walked toward the right side of the car and then proceeded driving slowly, again because of heavy traffic. Salceda was now parallel to the car. Salceda turned and jumped into the car through the passenger window.

Inside the car, Salceda turned toward Champion in a half kneeling position. He had his hands in half fists and was gesturing toward Champion's face. Salceda leaned toward Champion and put his fists two to three inches away from Champion's face. Champion asked Salceda what he was doing. Salceda told Champion to drive forward in a demanding and threatening voice. Champion drove to the intersection of 65th Street and Broadway. He stopped. Salceda told Champion to continue forward. Salceda was still in a crouched position with his fists raised. At the intersection where 65th Street meets Klauber and Scimitar Streets, Champion stopped. Salceda told Champion to go forward, however, Champion turned left. Salceda told Champion, "I told

you to go straight," but did not appear too demanding or upset that Champion had turned.

As they drove down Scimitar, Salceda ordered Champion to stop next to a pickup truck where a man was standing. Salceda's fists were on the dashboard. When it appeared that the man did not respond to Salceda, he ordered Champion to continue driving. Several houses down the street, Salceda ordered Champion to stop because Salceda thought he recognized a man in the front yard. Champion drove 20 yards past the man and stopped. Salceda appeared to be agitated, told Champion, "I told you to stop," and then punched him in the face, causing his glasses to crack and splashing blood on the front windows and on Champion's shirt. Jesse Marquez, who was outside in his yard sweeping leaves recognized Salceda as the passenger in the car. He saw Salceda hit Champion in the face in a very hard manner. He told his wife to call the police.

After Salceda hit Champion, the two scuffled over the car keys. Salceda lunged for the keys. Champion anticipated what Salceda was about to do and grabbed the keys. Salceda tried to get Champion's hands off the keys and punched him in the temple. Champion became more cooperative. Salceda told him to drive forward. Champion, who was already panicky, became more so because Salceda kept saying words like, "I could kill you," "I will kill you," or "I'll kill you." Salceda repeated this two or three times.

Champion continued driving slowly because, unknown to Salceda, he was nearing his house. He formed a plan. When Champion arrived at his house, he turned and zoomed up the driveway, honking his horn and yelling. Salceda attempted to grab the steering wheel. While the two were struggling, Salceda punched Champion in the head. Champion managed to park the car, causing Salceda to panic. Salceda fled the car while Champion ran to his house and called police. The entire episode happened in approximately five minutes.

James North, Champion's neighbor, heard a car driving very fast which was unusual in that neighborhood because it was rural and there are many children and animals in the area. He looked past his yard and saw Champion driving his car. He saw Salceda run from the car onto Scimitar Drive and try to hide behind some bushes. Twenty seconds later Salceda ran down the hill, towards Marquez's home. North and another neighbor stood outside trying to figure out what was happening. Champion's roommate ran past them and told them that Champion had just been attacked. North and the other neighbor joined in the chase. North hopped into his pickup truck and drove down the hill. Salceda returned to Marquez's home seven to ten minutes after Marquez saw him hit Champion. Salceda was walking at a fast pace. Marquez asked him what had happened. Salceda had an angry look on his face and did not answer him but continued walking toward him. Marquez raised a broom to his shoulder to keep Salceda at a distance. Salceda

stopped approximately four feet from Marquez who told him to back off. Salceda walked from side to side but did not back away from Marquez. Eventually Salceda went out toward the street. Marquez went to his car and hit the gate button, closing off the gates. Salceda came up to the gates and started conversing with Marquez. He asked for a ride which Marquez refused to give him. Marquez told Salceda to leave.

Marquez saw North drive his pickup truck near the house. North saw Salceda in the middle of the street waving his arms in an attempt to stop North who called police on his mobile telephone. Salceda began walking toward North who put his truck in reverse. Salceda picked up a large rock and stood in a position with the rock above his head as if to throw it at the truck. North got out of the truck with his rottweiler dog on a leash. He told Salceda not to throw the rock or he would let go of the dog. Salceda put the rock down. At the same time police arrived and Salceda was arrested. Champion identified Salceda as the kidnapper.

DEFENSE

Salceda testified that on April 25, 1995,³ he went to his mother's house to ask his mother's friend, Nacho, for a ride to Salceda's work in order to pick up his paycheck. Salceda arrived

³ The date of April 25, 1995, is incorrect. Champion testified the date of the incident was April 23, 1995. The information also alleged that the incident occurred on April 23, 1995.

at the house at 9 a.m. and stayed for approximately a half hour before going to pick up his check. He returned to his mother's house at 10:30 a.m. He and Nacho brought a six pack of beer with them. Salceda and Nacho drank the beer and Salceda stayed at his mother's house until 2 p.m. During that time, Salceda left his mother's house twice. Each time he returned he drank beer. While Salceda was at this mother's house, his mother told him not to drink any more because he had to go to work the next day. Salceda told her he would not, and that he was waiting for his wife so they could go grocery shopping. Salceda's mother could smell beer on Salceda. At approximately 2 p.m., Salceda left his mother's house and went to the trolley on 25th and Commercial Streets. Salceda had a 16-ounce beer while waiting for the trolley. He decided to go to Encanto where he got off at 62nd Street and Imperial. When he arrived at the trolley station, he went to a store and brought another 16-ounce beer. He talked to one person he knew and then saw Jesse Guerrero in his car. Salceda asked Guerrero if it would be all right to drink the beer inside a nearby bar. Guerrero said yes. Salceda and Guerrero went inside. The last thing Salceda remembered was sitting next to Guerrero and shaking the owner's hand. He did not remember a host of events that occurred inside the bar. Salceda did not remember Champion and had no memory of any of the events about which Champion testified. The next memory Salceda had was being in the back of a police car with an officer asking him questions.

Salceda agreed with the prosecutor that he was an aggressive drunk. He also acknowledged that he could not dispute any of the testimony of Champion because he claimed he did not remember any of it.

Guerrero had known Salceda for years. Salceda grew up with Guerrero's sons. He remembered the events in the Rio Contijo bar. Salceda and Guerrero sat in the bar for two hours during the afternoon. Sometime between 4 and 5 p.m., Guerrero told the barmaid not to serve Salceda any more drinks because Guerrero thought Salceda had had enough. Salceda's eyes were glassy and his speech was slurred. Salceda went to a nearby jukebox and slipped because of the amount of alcohol he had drunk. Because Guerrero was a friend of the bar owner, he decided to help the owner by escorting Salceda out of the bar. Guerrero and Salceda walked outside and had a conversation concerning Guerrero's children and Salceda and how they all seemed to be in trouble, and the movie "The Godfather." Salceda became angry over the movie and took off running, heading north on Imperial Avenue. Guerrero admitted Salceda became angry with Guerrero concerning "The Godfather" and that Salceda became belligerent.

DISCUSSION

I

CALJIC No. 9.58

Although Salceda testified he had no memory of the events of the kidnapping and that he was severely intoxicated, he contended

in the trial court and on appeal that he was entitled to have the jury instructed on the defense of good faith belief that the victim consented to allow him in the car and to drive him to various locations. He asked the court to instruct in the language of jury instruction CALJIC No. 9.58, which provides: "It is a defense to the charge of kidnapping that a defendant lacked general criminal intent. There is no general criminal intent if a defendant entertained a reasonable and good faith belief that the person alleged to have been kidnapped voluntarily consented to accompany the defendant and to the movement involved in the purported kidnapping. If from all the evidence you have a reasonable doubt that the defendant harbored general criminal intent at or during the time of the movement, you must find him not guilty of kidnapping."

The trial court, correctly in our view, refused to give the instruction because there was no evidence that Salceda believed the victim consented.

Salceda acknowledges he did not testify he believed the victim consented and that his defense was intoxication which produce a total absence of memory. He speculates, however, that since the victim followed his directions and drove to certain locations and did not call out for help, that a jury might believe that he believed the victim consented.

Kidnapping is committed when a person is moved or transported some distance against the person's will accomplished

by force or threat of force. (*People v. Davis* (1995) 10 Cal.4th 463, 517.) It is a general intent crime to which voluntary intoxication is not a defense. (*People v. Walker* (1993) 14 Cal.App.4th 1615, 1620-1621.)

As set forth in the statement of facts, the only person who testified to the events of the kidnapping was the victim. Respectfully, nothing in the victim's testimony could remotely be construed to establish Salceda's *good faith belief* that the victim of this forcible kidnapping consented. There was simply no evidence in this record to support an instruction on good faith belief in consent and the court correctly refused that instruction. (*People v. Patrick* (1981) 126 Cal.App.3d 952, 968.)

II

Power to Strike Priors

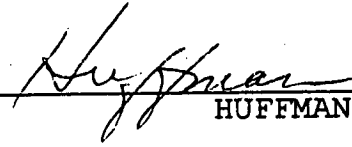
After the sentencing in this case, the Supreme Court filed its opinion in *People v. Superior Court (Romero)*, *supra*, 13 Cal.4th 497. In that case the court made clear trial courts retain their traditional power under section 1385 to strike serious/violent felony prior convictions in the furtherance of justice.

In the present case the trial court appears to have relied on earlier appellate court decisions indicating trial courts lacked such power. The Attorney General had properly conceded the case must be resentenced. Accordingly, we will remand the case to the trial court to permit that court to exercise its

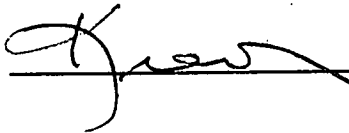
discretion in accordance with the guidelines set forth in Romero.
(See also *People v. Dent*, supra, 38 Cal.App.4th 1726.)


DISPOSITION

The sentence is vacated and the case remanded to the trial court for resentencing in accordance with the views expressed in this opinion. In all other respects the judgment is affirmed.


HUFFMAN, J.

WE CONCUR:


KREMER, P.J.


WORK, J.


Salceda was imprisoned between his initial sentence and resentencing. (See *People v. Chew* (1985) 172 Cal.App.3d 45, 50-51.) The trial court shall modify the abstract of judgment to reflect 531 days actual prison credit.

The judgment is affirmed as modified.



HALLER, J.

WE CONCUR:



WORK, Acting P.J.



MCDONALD, J.

F I L E D

MAR 25 1998

NOT TO BE PUBLISHED IN OFFICIAL REPORTS
Court

District

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

LEO SALCEDA,

Defendant and Appellant.

D029086

(Super. Ct. No. SCD112436)

APPEAL from a judgment of the Superior Court of San Diego County, E. Mac Amos, Jr., Judge. (Judge of the Municipal Court for the San Diego Judicial District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.) Affirmed as modified.

During the afternoon of April 23, 1995, Russell Champion was stopped in traffic at 65th Street and Imperial Avenue. Leo Salceda, apparently inebriated, entered Champion's car and threatened to harm him if he did not drive forward. Champion drove to his own home where he managed to run away from the car.

Exhibit A1

A jury convicted Salceda of kidnapping and exhibiting a deadly weapon (Pen. Code,¹ §§ 207, subd. (a), 417, subd. (a).) In a bifurcated hearing the court found he had three prior strikes (§ 667, subds. (b)-(i)), two prior serious felony convictions (§ 667, subd. (a)), and had served one prior prison term (§ 667.5, subd. (b)). The court sentenced him to 35 years to life: 25 years to life for kidnapping with 2 strikes enhanced by 5 years for each prior serious felony conviction. Salceda appealed and we remanded in light of *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497. On remand, the trial court struck two strikes and sentenced Salceda to twenty-six years: double the eight-year upper term for kidnapping with a strike enhanced by two five-year terms for the prior serious felony convictions. Salceda contends the trial court erred in imposing the upper term.

Section 1170, subdivision (b) provides in part:

"When a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the court shall order imposition of the middle term, unless there are circumstances in aggravation or mitigation of the crime."

California Rules of Court, rule 420(b) provides in part:

"Circumstances in aggravation and mitigation shall be established by a preponderance of the evidence. Selection of the upper term is justified only if after a consideration of all the relevant facts, circumstances in aggravation outweigh the circumstances in mitigation. . . ."

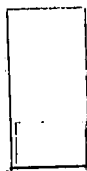
¹ All statutory references are to the Penal Code.

The trial court imposed the upper term because Salceda was on probation when the crime occurred and he has a serious and lengthy criminal history. Salceda recognizes determination as to the appropriate term is within the trial court's broad discretion. (See *People v. Roe* (1983) 148 Cal.App.3d 112, 119.) He recognizes the court correctly relied on both aggravating factors here, but he argues their weight is reduced by the use of two of the crimes to enhance his sentence and the court's failure to give sufficient weight to the factors in mitigation.

"Sentencing courts have wide discretion in weighing aggravating and mitigating factors [citation], and may balance them against each other in qualitative as well as quantitative terms. [Citation.]" (*People v. Roe, supra*, 148 Cal.App.3d at p. 119.) The trial court here heard Salceda and his counsel argue for a lighter sentence. It recognized Salceda has a severe alcohol problem but determined the upper term was proper.

"[D]iscretion is abused whenever the court exceeds the bounds of reason, all of the circumstances being considered. [Citations.] [I]n the absence of a clear showing that its sentencing decision was arbitrary or irrational" a discretionary determination should not be set aside on review. (*People v. Giminez* (1975) 14 Cal.3d 68, 72.) The trial court here was not arbitrary or irrational in choosing the upper term.

Salceda also argues, and the People concede, the abstract of judgment erroneously omits 531 days actual credit for the period



F I L E D
STEPHEN THUNBERG
Clerk of the Superior Court

SEP 14 2001

By: L. Hodges, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

IN RE THE PETITION OF:) SCD 105783
LEOVARDO SALCEDA,)
Petitioner.) ORDER DENYING REQUEST
FOR TRANSCRIPTS
)
)

THIS COURT, HAVING READ AND CONSIDERED THE REQUEST FOR
TRANSCRIPTS AND THE FILE IN THE ABOVE CAPTIONED MATTER, FINDS:

Petitioner seeks transcripts and other documents from the above-referenced case, but he has not provided any specific factual basis for obtaining this material, other than he wants to file a Petition for Writ of Habeas Corpus on a 12-year-old case for which he received a four-year sentence. He lists his issues but fails to state what facts he hopes to find to substantiate his issues. Petitioner has not stated anything about *what* he hopes to find in those documents. *Factual* specificity and particularity are required when seeking a reporter's transcripts or any other material from the file at the taxpayers' expense. Petitioner is not entitled to such material merely to comb the record for error. United States v. MacCollom (1976) 426 U.S. 317; Miller v. Hamm (1970) 9 Cal.App.3d 860. Further, Petitioner had the opportunity to appeal this matter, but apparently chose not to.

In People v. Bizieff (1991) 226 Cal.App.3d 1689, the Court discussed United States v.

Exhibit A2

MacCollom (1976) 426 US 317, where the US Supreme Court had upheld a federal statute which limited an indigent defendant's rights to transcripts: "The [MacCollom] court noted while an indigent defendant had an absolute right to transcripts on appeal, at the collateral relief stage he stood in a different position. (Citation). 'We think it enough at the collateral-relief stage that Congress has provided that the transcript be paid for by public funds if one demonstrates to a district judge that his . . . claim is not frivolous, and that the transcript is needed to decide an issue presented.' (Citation)." *Id.*, at 1702.

With all of this being said, right of access of the Petitioner is not being denied. However, right of access is not the same as a right to have the County of San Diego pay to make copies of transcripts and/or documents from the file. Petitioner has the right, as does any member of the public, to review this file and to request that copies be made of whatever documents are contained therein. The requesting party bears the cost of making copies and there is no legal authority requiring the taxpayer to subsidize this expense. Petitioner may have a friend or relative review the file and have copies made of whatever is contained therein -- for a fee.

Further, there are no transcripts in the Court file, so Petitioner would have to contact the court reporter for each hearing to negotiate financial arrangements to pay for what he wants.

Therefore, Petitioner's request for transcripts is DENIED.

It is further ordered that a copy of this Order be served upon Petitioner.

IT IS SO ORDERED.

DATED: Sept. 14, 2001

Robert F. O'Neill

ROBERT F. O'NEILL

JUDGE OF THE SUPERIOR COURT

Exh. A2



FILED
STEPHEN THOMPSON
Clerk of the Court

NOV 30 2001

By: P. COOKE, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

IN RE THE PETITION OF:) CR 105783
LEOVARDO SALCEDA,)
Petitioner.) ORDER DENYING REQUEST
FOR SETTLED STATEMENT
)
)

THIS COURT, HAVING READ AND CONSIDERED THE REQUEST FOR A
SETTLED STATEMENT AND THE FILE IN THE ABOVE CAPTIONED MATTER, FINDS:

On November 2, 1989, the Court sentenced Petitioner to a total term of four years for two
counts of robbery (Penal Code § 211) and one count of unlawful taking of a vehicle (Vehicle
Code § 10851(a)) plus the allegation on each robbery count that that he used a handgun during
the commission of the offense (Penal Code § 12022.5(a)/12022(a)). There is no record that
Petitioner ever filed a timely appeal in this matter or any indication that Petitioner is still serving
this sentence 12 years later.

Petitioner now claims that he wants to file a Petition for Writ of Habeas Corpus and seeks
copies of the record in this matter. Apparently he has purchased copies of all pertinent
documents contained in the file, but was told that he could not purchase any transcripts of the
proceedings because all notes had been destroyed after 10 years, as allowed by law.

In lieu of the missing transcripts, he seeks to have a settled statement approved so that he
can file his Petition.

1 This request for a settled statement must be denied for several reasons.

2 First, there is no authority requiring or allowing a settled statement for a Petition for Writ
3 of Habeas Corpus. All of the legal authority cited by Petitioner pertains to preparation of such a
4 statement when a defendant *has filed a timely appeal*. "It is now settled law that the state must
5 allow access by an *appealing* defendant in a criminal case, to ""a record of sufficient
6 completeness" to permit proper consideration" of his *appeal*. In Re Armstrong (1981) 126
7 Cal.App.3d 565, 570. (Emphasis added). As noted, no appeal was ever filed in this case.

8 Second, Petitioner has failed to provide the Court with any reason why he has waited
9 almost 12 years to seek to obtain these records. In other words, the problem he faces now was
10 caused by his own delay. Further, it would appear that 12 years later the four-year sentence has
11 been completely served.

12 Third, there is no showing that the settled statement would show anything contrary to
13 what the Minute Orders in the file indicate; i.e., the jury waiver.

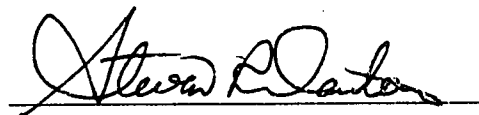
14 Finally, there is no proof that the other party(ies) to this case have been served or even
15 been made aware that Petitioner is attempting to obtain a settled statement.

16 Therefore, for all the above-stated reasons, this request is DENIED.

17 It is further ordered that a copy of this Order be served upon Petitioner.

18 IT IS SO ORDERED.

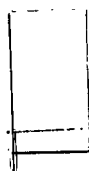
19 DATED: 11/30/01



STEVEN R. DENTON

JUDGE OF THE SUPERIOR COURT

Exh. A3



F I L E D
STEPHEN THUNBERG
Clerk of the Superior Court

MAR 27 2002

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO**

IN RE THE PETITION OF:) CR 105783
LEOVARDO SALCEDA,)
Petitioner.) ORDER DENYING MOTION TO
RECONSIDER ORDER DENYING
REQUEST FOR SETTLED STATEMENT

THIS COURT, HAVING READ AND CONSIDERED THE REQUEST TO
RECONSIDER AN ORDER DENYING A MOTION FOR A SETTLED STATEMENT AND
THE FILE IN THE ABOVE CAPTIONED MATTER, FINDS:

On November 30, 2001, the Court denied Petitioner's request to have a settled statement
approved so that he could file a Petition for Writ of Habeas Corpus. He had requested this settled
statement because he had attempted to obtain transcripts from this case but could not do so
because it was more than 10 years old and notes from that long ago were destroyed, as allowed
by law. Petitioner now asks the Court to reconsider its denial of that motion. For the reasons
stated below, this request is DENIED.

The underlying facts are that on November 2, 1989, the Court sentenced Petitioner to a
total term of four years after it had found him guilty in a Court trial of two counts of robbery
(Penal Code § 211) and one count of unlawful taking of a vehicle (Vehicle Code § 10851(a))
plus the allegation on each robbery count that that he used a handgun during the commission of

1 the offense (Penal Code § 12022.5(a)/12022(a)). Petitioner did not file a timely appeal in this
2 matter and had he remained law-abiding, this case would have had no bearing on his current
3 situation. However it does now have an effect because, although it was a strike that was stricken
4 when Petitioner was sentenced in case SCD 112436 on June 12, 1997, it still was used to
5 enhance the latest sentence because the law considers him to be a recidivist (repeat) offender,
6 pursuant to Penal Code § 667.

7 Petitioner's request was denied for several reasons and this Court has fully reviewed
8 those reasons and finds no error in that original analysis.

9 There is no authority requiring or allowing a settled statement for a Petition for Writ of
10 Habeas Corpus. All of the legal authority cited by Petitioner in the original motion and again in
11 the motion for reconsideration pertains to preparation of such a statement when a defendant *has*
12 *filed a timely appeal*. "It is now settled law that the state must allow access by an *appealing*
13 defendant in a criminal case, to "a record of sufficient completeness" to permit proper
14 consideration" of his *appeal*. In Re Armstrong (1981) 126 Cal.App.3d 565, 570. (Emphasis
15 added). As noted, no appeal was ever filed in this case.

16 Second, Petitioner failed to provide the Court with any reason why he has waited almost
17 12 years to seek to obtain these records. He counters now that he requested prior attorneys to
18 obtain information for him but that none of them ever did. However, he provides no proof of that
19 claim and there is nothing in the current files to verify this contention.

20 Third, and perhaps most importantly, there is no showing that the settled statement would
21 prove anything contrary to what the Minute Orders in the file indicate; i.e., the jury waiver. In
22 fact, the signed jury waiver is in the Court file. However, all the waiver of the jury did was to
23 allow the trial Judge to be the trier of fact instead of a jury. Petitioner did not have to be
24 informed about any other waiver of other rights because none were waived when he waived jury.
25 He still maintained the right to cross-examine witnesses, to not incriminate himself and to
26 present evidence. Thus, no settled statement and/or transcript would demonstrate anything
27 different than that signed jury waiver form.

28 Finally, while Petitioner has presented Proofs of Service to show that the People have
29 been served with both the original motion and this motion to reconsider, they have not
30 responded, probably because the law as noted above does not require them to reply.

1 Therefore, because Petitioner has not provided any reason to modify the original order
2 denying his requests, this motion to reconsider is DENIED.

3 It is further ordered that a copy of this Order be served upon Petitioner.

4 IT IS SO ORDERED.

5 DATED: 3-27-02

Rafael A. Arreola

6 RAFAEL A. ARREOLA

7 JUDGE OF THE SUPERIOR COURT

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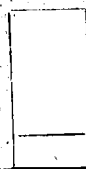
Exh. A4

The foregoing instrument is a full, true and correct
copy of the original on file in this office.

MAR 29 2002

Attest:
STEPHEN THUNBERG
Clerk of the Superior Court of the State of California,
in and for the County of San Diego.

By: J. Belden Deputy
J. BELDEN



F I L E D
STEPHEN THUNBERG
Clerk of the Superior Court

JUL 19 2002

By: M. CHARTER, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO**

IN THE MATTER OF THE APPLICATION OF:

HC 17070

LEOVARDO SALCEDA,

SCD 112436
CR 105783
CR 140382

Petitioner.

ORDER DENYING PETITION FOR WRIT
OF HABEAS CORPUS

AFTER REVIEWING THE PETITION FOR WRIT OF HABEAS CORPUS AND THE COURT FILES IN THE ABOVE REFERENCED MATTER, THE COURT FINDS AS FOLLOWS:

A jury convicted Petitioner in 1995 of kidnapping (Penal Code¹ § 207(a)) and exhibiting a deadly weapon (§ 417(a)). In a bifurcated trial, the court found that Petitioner had three strike priors (§ 667(b)-(i)), two serious felony priors (§ 667(a)), and he had served one prior prison term (§ 667.5(b)). Petitioner was sentenced to a term of 35 years to life in state prison.

Petitioner appealed, and the Court of Appeal, Fourth Appellate District, Division One, issued an unpublished opinion remanding the case for consideration of a motion to strike Petitioner's prior strikes, pursuant to *People v. Superior Court (Romero)* (1996) 13 Cal. 4th 497. [D025258.] On remand, the trial court struck two-strikes and sentenced Petitioner to a determinate term of 26 years in prison: double the eight-year term for kidnapping and two

¹ All further references are to the Penal Code.

Exhibit A5

1 consecutive five-year terms for the serious felony prior convictions. Petitioner again appealed,
2 contending the trial court erred in imposing the upper term and failing to consider the factors in
3 mitigation. The Court of Appeal affirmed the trial court judgment on March 25, 1998, and a
4 remittitur was issued on May 26, 1998. [D029086.]

5 In a petition for writ of habeas corpus filed on June 26, 2002, Petitioner asserts the
6 following arising out of his conviction in SCD 112436: (1) that in entering a "slow plea" in CR
7 105783 (which formed the basis in the information of SCD 112436 for the first and second strike
8 priors and the first serious felony prior) he was not advised nor aware of his right to confront and
9 cross-examine the witnesses against him, the right against self-incrimination, the right to present
10 evidence on his own behalf, and the right to a jury trial; (2) that he received ineffective assistance
11 of counsel in CR 105783, which led to the conviction and its use as a strike prior and serious
12 felony prior in SCD 112436; (3) that he was denied effective assistance of counsel in CR 140382
13 (which formed the basis in the information of SCD 112436 for the third strike prior and the
14 second serious felony prior); (4) that the sentencing court in SCD 112436 violated Petitioner's
15 rights to due process and equal protection by failing to consider the mitigating circumstances in
16 sentencing Petitioner on June 12, 1997 to 26 years in state prison; (5) that Petitioner's rights to
17 due process were violated in SCD 112436 by his counsel's failure to challenge the evidence
18 relating to the prior convictions; and (6) that Petitioner's right to a fair trial in SCD 112436 was
19 violated when the trial court advised the jury of the verdict in the O.J. Simpson criminal case.

20 The petition is denied for the following reasons.

21 ***I. Petitioner Fails to Show a Denial of Due Process in CR 105783***

22 Petitioner contends in CR 105783 that he was not advised nor aware of his right to a jury
23 trial, right to confront and cross-examine witnesses, the right against self-incrimination, and the
24 right to present evidence before he entered into the "slow plea" agreement by submitting in a
25 court trial on the evidence in the preliminary hearing transcript. In considering this issue, the
26 court has assumed without so finding that Petitioner is correct his conviction was the product of a
27 "slow plea," i.e., it was tantamount to the entry of a guilty plea. In *Bunnell v. Superior Court*
28 (1975) 13 Cal. 3d 592, the California Supreme Court held that "in all cases in which the

1 defendant seeks to submit his case for decision on the transcript or to plead guilty, the record
2 shall reflect that he has been advised of his right to a jury trial, to confront and cross-examine
3 witnesses, and against self-incrimination." [*Id.* at 605.] These rights have commonly been
4 referred to as *Boykin-Tahl* rights after *Boykin v. Alabama* (1969) 395 U.S. 238 and *In re Tahl*
5 (1969) 1 Cal. 3d 122.

6 First of all, Petitioner's own Exhibit G demonstrates that he was advised in writing of his
7 right to a jury trial and that he voluntarily gave up that right in order to proceed in a court trial.
8 Therefore, his contention that he was not aware of and was not advised of his right to a jury trial
9 is not well taken.

10 Petitioner's contention that he was not advised of the right to confront and cross-examine
11 witnesses (which, by implication includes the right to present evidence) and the right against
12 self-incrimination is insufficient to support his collateral challenge to the validity of his prior
13 conviction. "In the context of a collateral attack, as opposed to a direct appeal, it has been
14 consistently been the rule that prejudice (an unformed, involuntary plea) must be demonstrated
15 for any *Boykin-Tahl* error." [*People v. Cooper* (1992) 7 Cal. App. 4th 593, 597.] After discussing
16 considerable case precedent on the standards for challenging the constitutional validity of a
17 guilty plea, the court in *Cooper* concluded "that a collateral attack upon a prior conviction used
18 for sentence enhancement, whether by habeas petition or a motion to strike, must allege
19 prejudice: an 'actual denial' of constitutional rights rendering the plea 'involuntary' because
20 defendant was 'unaware of his [*Boykin-Tahl*] rights and would not have pleaded guilty had he
21 known of them.'" [*Id.* at 601 (citing *People v. Tassell* (1984) 36 Cal. App. 3d 77, 92, et al.).]

22 Petitioner has failed to make a *prima facie* showing on two of these aspects. First, the
23 court notes that Petitioner makes the bald statement that he was not aware of and was not advised
24 of his *Boykin-Tahl* rights. He attempts to support this contention by referencing a silent record.
25 Petitioner is correct that the minutes do not reflect whether he was advised of and waived his
26 right to confront and cross-examine witnesses and the right against self-incrimination. However,
27 as was stated in *Cooper, supra*, 7 Cal. App. 4th at 597, "[w]e find that the evidence presented by
3 the minute order of a silent record and defendant's bare declaration of nonwaiver of his right[s]

1 ... are insufficient to support defendant's challenge of the prior conviction in this habeas corpus
2 proceeding." Furthermore, "[c]onclusory allegations made without any explanation of the basis
3 for the allegations do not warrant relief" [*People v. Karis* (1988) 46 Cal. 3d 612, 656.]
4 Petitioner's contentions are essentially no different from those at issue in *Cooper*, especially in
5 light of the fact that because of Petitioner's delay in presenting this issue the reporter's notes
6 have been destroyed in accordance with the law. Therefore, the court finds that Petitioner has
7 failed to make a *prima facie* showing that his plea was involuntary.

8 Petitioner has likewise failed to state in any respect that he would not have pled guilty
9 had he known of his *Boykin-Tahl* rights. Therefore, he cannot assert that he suffered any
10 prejudice as a result of his assertion that he was not advised of and was not aware of his *Boykin-*
11 *Tahl* rights. Furthermore, the court minutes reflect that the People dismissed counts 3 and 5 prior
12 to submitting on the evidence set forth in the preliminary hearing transcript. Therefore,
13 Petitioner avoided the possibility of a longer state prison term by the manner in which the
14 proceedings were handled.

15 In short, because Petitioner has not shown that he was unaware of his *Boykin-Tahl* rights
16 at the time he pled guilty, and because he has failed to show that he would not have pled guilty
17 had he known of these rights, he has not established a *prima facie* case for the collateral relief
18 requested.

19 ***II. Petitioner Fails to Show That He Received Ineffective Assistance of Counsel in CR***
20 ***105783***

21 Petitioner contends he received ineffective assistance from trial counsel in CR 105783
22 with respect to counsel's supposed failure in seeking to exclude evidence relating to a witness
23 who recanted his identification of Petitioner after the preliminary hearing and before trial
24 commenced (i.e., the slow plea). Petitioner also complains that counsel failed to properly
25 investigate and present evidence in support of his defense.

26 One who claims ineffective assistance of counsel is required to show: (1) "that counsel's
27 performance was deficient" [*Strickland v. Washington* (1984) 466 U.S. 668, 687]; and (2)
28 resulting prejudice from counsel's alleged deficiencies. [*Id.* at 693-94.] However, even if the

1 evidence established "that counsel's performance was deficient," Petitioner has not established
2 the requisite prejudice from the alleged failures of trial counsel. To prove prejudice, Petitioner
3 must establish a "reasonable probability that but for counsel's unprofessional errors, the result of
4 the proceeding would be different. A reasonable probability is a probability sufficient to
5 undermine confidence in the outcome." [*Id.* at 694.] This showing of prejudice must be
6 "affirmatively proved" by Petitioner. [*People v. Ledesma* (1987) 43 Cal. 3d 171, 216.]

7 The prejudice Petitioner must show here relates to the use of these convictions to enhance
8 the sentence he is presently serving in SCD 112436. However, Petitioner is unable to
9 demonstrate any such prejudice because the court in SCD 112436 struck one of the two strikes
10 stemming from CR 105783, and Petitioner raises no factual challenge to the second robbery for
11 which he stood convicted. Furthermore, the People only pled the two robbery convictions as one
12 serious felony prior, which was used to provide one five-year sentence enhancement. Therefore,
13 no negative consequences occurred in SCD 112436 as a result of the alleged ineffective
14 assistance of counsel in CR105783. This ground of the petition is denied on this basis.

15 ***III. Petitioner Fails to Establish a Claim of Ineffective Assistance of Counsel in CR***
16 ***140382***

17 Petitioner's primary complaints in this claim are that his attorney in CR 140382 failed to
18 properly investigate and advise Petitioner of the possible sentencing consequences he faced, and
19 failed to advise Petitioner of his right against self-incrimination. However, first of all,
20 Petitioner's own Exhibit H-5 shows that he was advised of his right to remain silent, i.e., the
21 right against self-incrimination. Secondly, there is no factual showing that properly supports the
22 supposed failure to investigate. Finally, Petitioner can show no prejudice by counsel's
23 supposedly advising him the prison prior allegation added five years as opposed to one year.
24 Petitioner was placed on probation and given one year in county jail as a condition of probation.
25 He was not sentenced to state prison until he violated probation. Petitioner therefore cannot
26 demonstrate that any prejudice resulted from any ineffective assistance of counsel that Petitioner
27 might have received. This ground of the petition is therefore denied.

28 ///

Exh. A5

IV. The Issue of the Trial Court's Consideration of the Mitigating Factors in SCD 112436 Was Considered and Rejected on Appeal

Petitioner complains that in re-sentencing him to a determinate 26-year term in state prison, the trial court failed to consider mitigating factors because they were not addressed in the probation report prepared for the first sentencing. However, the Court of Appeal considered and rejected this claim in the second appeal of this case, noting that the court did properly consider the mitigating factors in choosing the upper term for the crime of kidnapping. Matters that were raised and rejected on appeal are not ordinarily cognizable on state habeas corpus in the absence of special circumstances. [*In re Huffman* (1986) 42 Cal. 3d 552, 554-55.] No special circumstances are shown here. Moreover, the court notes that defense counsel filed a statement in mitigation more than one month before the re-sentencing on remand occurred in 1997.

V. Petitioner's Constitutional Rights Were Not Violated in the Bifurcated Court Trial on the Priors Alleged in SCD 112436

Petitioner asserts that his due process rights were violated when neither the court nor counsel advised him and/or obtained a waiver of his constitutional rights prior to the commencement of the court trial on the prior conviction allegations. Petitioner essentially contends that the failure of defense counsel to challenge the evidence proffered by the prosecution was tantamount to the entry of a guilty plea and thus he should have been advised of his rights. However, first of all, Petitioner's own Exhibit O-1 shows that Petitioner waived his right to a jury trial before the bifurcated court trial on the priors commenced. Further, Petitioner cites to no authority that requires counsel or the court to separately advise a defendant of his constitutional rights before he or she proceeds in a bifurcated trial on prior conviction allegations. Moreover, it is not unusual for the defense not to present any affirmative evidence on the issue of whether a defendant suffered the alleged prior convictions. In short, typically the testimony and certified records offered by the prosecution speak for themselves, and there is often nothing left to challenge. No deprivation of Petitioner's constitutional rights occurred in the proceeding and the petition is denied in this regard.

///

Exh. A5

VI. Petitioner Has Shown No Error Occurred When the Court in SCD 112436 Informed the Jurors about the Verdict in the O.J. Simpson Criminal Case

Petitioner contends that his right to a fair trial was infringed upon when the court in SCD 112436 informed the jurors about the verdict in the O.J. Simpson criminal case after closing arguments were completed in the morning session of October 3, 1995. However, Petitioner has not shown that any prejudice occurred as a result of the juror's being informed at that time about O.J. Simpson verdict. The minutes reflect that the jury retired to deliberate after being instructed following a three-hour lunch break, during which they would likely have learned of the verdict in light of its prominence in the news at that time. Therefore, this ground of the petition is denied for this reason.

It is further ordered that a copy of this Order be served upon: (1) the Office of the San Diego County District Attorney (DDA Thomas McArdle); and (2) Petitioner.

IT IS SO ORDERED.

DATED: 7/19/02

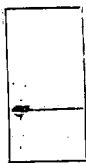

KENNETH K. SO
JUDGE OF THE SUPERIOR COURT

I hereby certify that the foregoing instrument is a full, true & correct copy of the original on file in this office, that said document has not been revoked, annulled or set aside, and it is in full force and effect.

JUL 19 2002
Attest: STEPHEN THUNBERG, Clerk of the Superior Court of the State of California, in and for the County of San Diego

By AK Deputy

Exh. A5



FILED
STEPHEN THOMBERG
Clerk of the Superior Court

NOV 13 2002

EDMUND S. RINA, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

IN RE THE PETITION OF:) CR 105783
LEOVARDO SALCEDA,)
Petitioner.) ORDER DENYING REQUEST FOR
HEARING TO ORDER COUNSEL TO
TURN OVER DOCUMENTS

THIS COURT, HAVING READ AND CONSIDERED THE REQUEST FOR AN
ORDER THAT COUNSEL TURN OVER DOCUMENTS AND THE FILE IN CR 105783,
FINDS:

Petitioner asks the Court to order his trial representatives, the San Diego Office of the
Public Defender, to turn over the "client papers and property" from CR 105783 to Petitioner.
Petitioner states that his trial attorney has passed away and now wants the Court to assist him to
obtain his file. However, the Superior Court is not the proper forum in which to seek assistance
in obtaining material from a party's attorney. In Re Walker (1948) 32 Cal.2d 488; Bollotin v.
California State Personnel Board (1955) 131 Cal.App.2d 197. In that regard, Petitioner may have
civil remedies which he may pursue in civil court and/or he may contact the California State Bar.

Further, there are no transcripts in the Court file and the Court has already denied
Petitioner's request for free copies of transcripts and other documents. Petitioner would have to
contact the court reporter for each hearing to negotiate financial arrangements to pay for what he

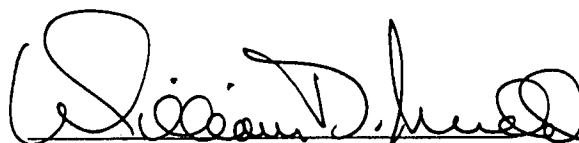
1 wants. Apparently he has already attempted to do so and been told that the original notes for that
2 1989 case have been destroyed.

3 Therefore, Petitioner's request for Court assistance in obtaining transcripts is DENIED.

4 It is further ordered that a copy of this Order be served upon Petitioner and the office of
5 eh san Diego Public Defender.

6 IT IS SO ORDERED.

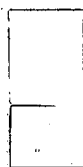
7 DATED: NOV 13 2002



8 WILLIAM D. MUDD

9 JUDGE OF THE SUPERIOR COURT
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Exh. A6



COURT OF APPEAL - FOURTH APPELLATE DISTRICT

DIVISION ONE

F I L E D
Stephen M. Kelly, Clerk

STATE OF CALIFORNIA

FEB - 6 2003

Court of Appeal Fourth District

In re LEOVARDO SALCEDA

D041226

on

(San Diego County
Super. Ct. No. SCD 112436)

Habeas Corpus.

THE COURT:

The petition for writ of habeas corpus has been read and considered by Presiding Justice Kremer and Associate Justices Haller and McIntyre. We have taken judicial notice of appeal files D025258 and D029086 and superior court file CR105783.

Leovardo Salceda is serving a 26-year sentence on a 1995 conviction for kidnapping with a strike enhanced by two five-year terms for prior serious felony convictions. He challenges the conviction and the use of a 1989 robbery conviction (CR105783) to enhance the sentence. " '[B]ecause petitioner seeks to overturn a final judgment in a collateral attack, he bears the burden of proof. . . . ' For purposes of collateral attack, all presumptions favor the truth, accuracy, and fairness of the conviction and sentence . . . [s]ociety's interest in the finality of criminal proceedings so demands ' "[Citations.] ' " (*In re Roberts* (2003) 29 Cal.4th 726, 740-741.)

Salceda claims the 1989 conviction was invalid because he agreed to a slow plea but was never informed of his right against self-incrimination and his right to cross-examine witnesses. The record is silent whether Salceda was advised and the court reporter's notes have been destroyed. However, Salceda's right against self-incrimination is not implicated because he does not claim he testified at the preliminary hearing and the transcript of the hearing was the only evidence the court reviewed on the slow plea. Salceda claims had he known he could cross-examine witnesses he would have proceeded to trial. He claims he was prejudiced because robbery victim Rafael Haro later recanted his preliminary hearing identification of Salceda in open court. There is nothing in the record to show Haro recanted. The absence of express admonitions and waivers is

Exhibit A7

not per se error. (*People v. Howard* (1992) 1 Cal.4th 1132, 1178.) Salceda has not shown his agreement to a slow plea was other than voluntary and intelligent under the totality of the circumstances. (*Ibid.*) Salceda's claim he is factually innocent of the robbery of Haro is unsubstantiated.

Salceda claims insufficient evidence supports the 1995 kidnapping conviction, the court erred in excluding an expert witness and his attorney was ineffective in investigating defenses and advising him regarding his trial testimony. All of these claims could have been raised on appeal. Salceda has not shown clear and fundamental constitutional error to warrant judicial review on postappeal habeas corpus. (*In re Harris* (1993) 5 Cal.4th 813, 834.) Salceda's claim his sentence is illegal was reviewed and rejected in D029086.

Salceda also claims the court should have granted his motion to set aside the indictment. Review of a denial of a Penal Code section 995 motion is by petition for writ of prohibition within 15 days of the denial of that motion. (Pen. Code, § 999a.) It is not reviewable on postappeal habeas corpus.

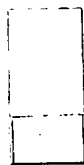
The petition is denied.



HALLER, Acting P. J.

Copies to: All parties

Exh. A7



COURT OF APPEAL - FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

FILED
Stephen M. Kelly, Clerk
JUN 17 2003

LEOVARDO SALCEDA,

Petitioner,

v.

THE SUPERIOR COURT OF SAN
DIEGO COUNTY,

Respondent;

THE PEOPLE,

Real Party in Interest.


D042258

(San Diego County
Super. Ct. No. SCD 112436)

Court of Appeal Fourth District

THE COURT:

The petition for writ of mandate has been read and considered by Justices Nares, McDonald and O'Rourke. The Public Defender has located and transmitted the file to petitioner Leovardo Salceda. The petition is denied as moot.



NARES, Acting P. J.

Copies to: All parties

Exhibit A8



F I L E D

Clerk of the Superior Court

AUG 20 2003

By: G. NEGGELIN, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO**

IN RE THE MOTION OF:

LEOVARDO SALCEDA,

Petitioner.

) SCD 112436

) CR 105783

) CR 140382

)

) ORDER DENYING MOTION FOR RELIEF,

) FOR APPOINTMENT OF COUNSEL AND

) FOR AN EVIDENTIARY HEARING

)

THIS COURT, HAVING READ AND CONSIDERED THE POST-CONVICTION MOTION FOR RELIEF IN CR 105783, THE APPLICATION FOR APPOINTMENT OF COUNSEL, THE MOTION FOR AN EVIDENTIARY HEARING, AND THE FILES IN THE ABOVE CAPTIONED MATTERS, FINDS:

A jury convicted Petitioner in 1995 of kidnapping (Penal Code § 207(a)) and exhibiting a deadly weapon (Penal Code § 417(a)). In a bifurcated trial, the Court found that Petitioner had three strike priors (Penal Code § 667(b)-(i)), two serious felony priors (Penal Code § 667(a)), and that he had served one prior prison term (Penal Code § 667.5(b)). Based upon this conviction, the Court sentenced Petitioner to a total term of 35 years to life in state prison.

Petitioner timely appealed and on October 25, 1996, the Fourth District Court of Appeal issued an unpublished opinion remanding the case for consideration of a motion to strike prior strikes, pursuant to People v. Romero (1996) 13 Cal.4th 497 [Appellate case D025258]. On remand, the trial court struck two strikes and sentenced Petitioner to a determinate term of 26

Exhibit A9

1 years, which was double the eight-year term for kidnapping and two consecutive five-year terms
2 for the serious felony priors.

3 Petitioner timely appealed that new sentence, but this time the Fourth District Court of
4 Appeal affirmed the judgment on March 25, 1998 [Appellate case D029086].

5 Petitioner sought to obtain free documents and transcripts, but failed to present a factual
6 basis for receiving them and the motion was denied on September 14, 2001. Petitioner then
7 apparently was able to purchase copies from his files, but he could not obtain transcripts because
8 the notes were older than 10 years and had been destroyed, as allowed by law. Therefore, he
9 asked the Court to prepare a settled statement so that he could file a habeas corpus petition. This
10 request was denied on November 30, 2001.

11 Thereafter, Petitioner filed a habeas corpus petition in Superior Court, claiming he was
12 denied due process in **CR 105783**, that he had received ineffective assistance of counsel in both
13 **CR 105783** and **CR 140382**, that his constitutional rights were violated in the bifurcated court
14 trial on the priors alleged in **SCD 112436**, and that the Court committed error in **SCD 112436**
15 when it informed the jurors in his trial of the verdict in the O.J. Simpson criminal case.

16 The Court did not find merit in these arguments and denied the petition on July 19, 2002.

17 Thereafter, Petitioner filed another habeas corpus petition, this time with the Fourth
18 District Court of Appeal, challenging the conviction in **CR 105783** because he was never
19 informed of his right against self-incrimination and his right to cross-examine witnesses.
20 Petitioner claimed that had known the latter right, he would have proceeded to trial. He further
21 claimed that he was prejudiced because robbery victim Rafael Haro later recanted his
22 preliminary hearing identification of Petitioner in open court. *However*, the appellate court noted
23 “[*T*here is nothing in the record to show Haro recanted.” (This phrase is highlighted for
24 reasons explained below.)

25 Petitioner also presented numerous other arguments in that habeas corpus petition, but the
26 Court denied that Petition [D041226] on February 6, 2003.

27 Petitioner has now filed the present motions, the basis of which all focuses around the
28 highlighted statement immediately above: “There is nothing in the record to show Haro
29 recanted.”

30 Petitioner has recently received a letter from the San Diego District Attorney (DDA

Exh. A9

George Clarke), dated May 21, 2003, the pertinent part of which stated: "Mr. Haro provided brief information to this office on October 3, 1989, indicating that he had mis-identified you as the person who had robbed him. He stated on that same date that he had no intention of coming to court at your trial and that he resided in Tijuana, Mexico. The information from Mr. Haro was not reduced to a report, but only noted in your case file. ¶ The information provided by Mr. Haro was immediately provided to your attorney at the time, Mr. William Youmans, at the time of your trial."

Petitioner now believes that this letter proves that Mr. Haro recanted and had he known that at the time, he would not have pled guilty and would have proceeded to trial.

It should be noted that all this letter actually proves is that Petitioner's attorney knew of the recant at the time of the plea. But, as the record shows, Petitioner also has known about it for a long time and could have raised that issue before, but did not. More importantly, the appellate court vacated the original sentence and the trial court struck two strike priors on remand, reducing his total sentence from indeterminate to a determinate 26 years.

Upon review, all the courts that have looked at this case since the original sentence have not found that Petitioner was prejudiced in any way by the fact that a witness recanted and Petitioner has failed to show here how proving that recantation changes anything.

Petitioner is now surmising that had the Judge know about the recant, he would not have let Petitioner plead guilty. However, this is just a guess without substantiation. He also repeats his claims about his lack of awareness of his rights to cross-examine and against self-incrimination, but these issues have already been dealt with in the past against Petitioner's interests and they cannot be re-visited.

Therefore, for the above-stated reasons, these motions are DENIED. Petitioner has had his full day in court to argue all of the above issues and any further attacks on his convictions and/or sentences should be filed with the Court of Appeal.

It is further ordered that a copy of this Order be served upon Petitioner, the San Diego Public Defender, and the San Diego Office of the District Attorney (DBA Kim-Thoa Hoang).

IT IS SO ORDERED.

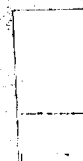
DATED: _____

AUG 20 2003


H. RONALD DOMNITZ

JUDGE OF THE SUPERIOR COURT

Exh. A9





CALIFORNIA WESTERN

SCHOOL OF LAW

CALIFORNIA INNOCENCE PROJECT

September 23, 2003

Justin Brooks, Esq.
Bar No. 214187

Leovardo Salceda
J90933
B3-150
P.O. Box 2349
Blythe, CA 92226

Dear Mr. Salceda:

The California Innocence Project provides *pro bono* legal assistance to inmates who maintain their innocence in the participation of the crimes for which they were convicted. In such cases, new, strong evidence of innocence must exist.

The California Innocence Project only accepts cases where the conviction occurred in Southern California. Please respond to the attached questionnaire with as many answers as you can. Submit only the documents specifically requested in section X of the questionnaire, **do not send all the documents listed in section X**. Submitting original copies is not recommended, photocopies are preferred; if you cannot produce photocopies you might forward the documents to a family member so they can make copies.

We are not agreeing to take your case at this time, but we will evaluate the case and consider representation. Once the questionnaire and supporting documents are received, your file will begin funneling through our review process. The review process includes investigating the facts of your case and can take months. Please understand that due to the overwhelming number of requests for our assistance, this letter may be the only correspondence you receive from the Project for some time; however, just because we do not contact you does not mean we are not reviewing your case. During the review process, you must proceed with your legal proceedings as if we are not involved. This may mean you need to acquire counsel to meet filing deadlines.

Thank You,
California Innocence Project

Enc: Screening Questionnaire

Exhibit A10



CALIFORNIA WESTERN SCHOOL OF LAW



CALIFORNIA INNOCENCE PROJECT

January 12, 2004

Leovardo Salceda
J90933
B3-150
P.O. Box 2349
Blythe, CA 92226

Dear Mr. Salceda:

Thank you for your questionnaire. In order to begin the review process, we need the following documents:

- Police Report(s) **SEND COPIES ONLY IF YOU ACCEPTED A PLEA**
- Physical Evidence, Laboratory & Medical Report(s) **SEND COPIES IF YOU HAVE THEM**
- Probation Report **SEND COPY IF YOU HAVE IT**
- Appellant's Opening Brief (AOB) **SEND COPY**
- Opinion **SEND COPY**

Once we receive the requested documents, your file will be submitted to the Project's Case Manager for preliminary review. In the event the Case Manager determines there to be compelling evidence of innocence, your case will be assigned to a student for a more in depth investigation into your case. The student will notify you of their assignment once this happens. Should your case not qualify for further investigation, your documents will be returned to you.

Please understand that due to the overwhelming number of requests for our assistance, this letter may be the only correspondence you receive from the Project for some time; however, just because we do not contact you does not mean we are not reviewing your case.

During the review process, you must proceed with your legal proceedings as if we are not involved. This may mean you need to acquire counsel to meet filing deadlines.

Exh. A10

Finally, please do not telephone, write, or send additional information regarding your case unless we request it. Your patience, and the patience of your loved ones, is appreciated. We will review your case and notify you of the outcome as soon as possible.

Sincerely,
California Innocence Project

Exh. A10



CALIFORNIA WESTERN SCHOOL OF LAW



CALIFORNIA INNOCENCE PROJECT

May 17, 2004

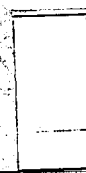
Leovardo Salceda
J90933
B3-150
P.O. Box 2349
Blythe, CA 92226

Dear Mr. Salceda:

We are returning your check you sent us for our investigation: CIP works on a strict *pro bono* basis. We are presently reviewing your file and considering investigating your claim. We will get back to you with the results as soon as we can.

Sincerely,
California Innocence Project

Exh. A10



S125591

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re LEOVARDO SALCEDA on Habeas Corpus

Petition for writ of habeas corpus is DENIED. (See *In re Robbins* (1998) 18 Cal.4th 770, 780; *In re Swain* (1949) 34 Cal.2d 300, 304; *In re Dixon* (1953) 41 Cal.2d 756; *In re Lindley* (1947) 29 Cal.2d 709; *In re Waltreus* (1965) 62 Cal.2d 218.)

SUPREME COURT
FILED

JUN - 8 2005

Frederick K. Ohlrich Clerk

DEPUTY

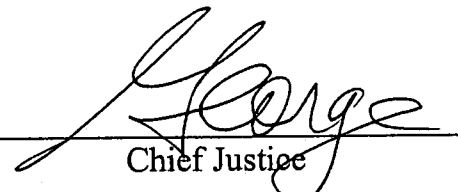
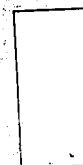

Chief Justice

Exhibit A11



By: WJR Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO**

IN THE MATTER OF THE APPLICATION OF:)	HC 17070
)	
)	SCD 112436
)	CR 105783
LEOVARDO SALCEDA,)	CR 140382
)	
)	2 nd Petition
)	
Petitioner.)	ORDER DENYING PETITION FOR WRIT
)	OF HABEAS CORPUS & REQUEST FOR
)	APPOINTMENT OF COUSEL

AFTER REVIEWING THE PETITION FOR WRIT OF HABEAS CORPUS AND REQUEST FOR APPOINTMENT OF COUNSEL THE COURT FILES IN THE ABOVE REFERENCED MATTER, THE COURT FINDS AS FOLLOWS:

A jury convicted Petitioner in 1995 of kidnapping (Penal Code¹ § 207(a)) and exhibiting a deadly weapon (§ 417(a)). In a bifurcated trial, the court found that Petitioner had three strike priors (§ 667(b)-(i)), two serious felony priors (§ 667(a)), and he had served one prior prison term (§ 667.5(b)). Petitioner was sentenced to a term of 35 years to life in state prison.

Petitioner appealed, and the Court of Appeal, Fourth Appellate District, Division One, issued an unpublished opinion remanding the case for consideration of a motion to strike Petitioner's prior strikes, pursuant to *People v. Superior Court (Romero)* (1996) 13 Cal. 4th 497.

All further references are to the Penal Code.

Exhibit A12

1 [D025258.] On remand, the trial court struck two-strikes and sentenced Petitioner to a
2 determinate term of 26 years in prison: double the eight-year term for kidnapping and two
3 consecutive five-year terms for the serious felony prior convictions. Petitioner again appealed,
4 contending the trial court erred in imposing the upper term and failing to consider the factors in
5 mitigation. The Court of Appeal affirmed the trial court judgment on March 25, 1998, and a
6 remittitur was issued on May 26, 1998. [D029086.]

7 Petitioner filed a Petition for Writ of Habeas Corpus on June 26, 2002, asserting: (1) that
8 in entering a "slow plea" in CR 105783 (which formed the basis in the information of SCD
9 112436 for the first and second strike priors and the first serious felony prior) he was not advised
10 nor aware of his right to confront and cross-examine the witnesses against him, the right against
11 self-incrimination, the right to present evidence on his own behalf, and the right to a jury trial in
12 violation of his *Boykin/Tahl* rights; (2) that he received ineffective assistance of counsel in CR
13 105783, which led to the conviction and its use as a strike prior and serious felony prior in SCD
14 112436; (3) that he was denied effective assistance of counsel in CR 140382 (which formed the
15 basis in the information of SCD 112436 for the third strike prior and the second serious felony
16 prior); (4) that the sentencing court in SCD 112436 violated Petitioner's rights to due process
17 and equal protection by failing to consider the mitigating circumstances in sentencing Petitioner
18 on June 12, 1997 to 26 years in state prison; (5) that Petitioner's rights to due process were
19 violated in SCD 112436 by his counsel's failure to challenge the evidence relating to the prior
20 convictions; and (6) that Petitioner's right to a fair trial in SCD 112436 was violated when the
21 trial court advised the jury of the verdict in the O.J. Simpson criminal case. The court did not
22 find merit in Petitioner's claims, and the Petition was denied on July 19, 2002.

23 Thereafter, Petitioner filed a Petition for Writ of Habeas Corpus with the Fourth District
24 Court of Appeal challenging the conviction in CR 105783 because he was never informed of his
25 right against self incrimination and his right to cross-examine witnesses in violation of his
26 *Boykin/Tahl* rights. He also asserted that his attorney was ineffective in investigating and
27 advising him regarding his trial testimony in SCD 112436. The appellate court held that
28 Petitioner had failed to show that his agreement to a "slow plea" in CR 105783 was anything but

1 voluntary and intelligent. The appellate court further indicated that the ineffective assistance of
 2 counsel claim could have been, but was not, raised on appeal. Thus, his Petition was denied.
 3 [Court of Appeal, 4th App. Dist., Div. 1, Dated February 6, 2003, D041226.]

4 Petitioner has now filed the present second Petition for Writ of Habeas Corpus.
 5 Petitioner claims that he received ineffective assistance of counsel in case SCD 112436. It
 6 appears that Petitioner is asserting that trial counsel failed to properly investigate the court/client
 7 files in connections with Petitioner's previous conviction in case CR 105783, which would have
 8 identified the *Boykin/Tahl* errors and other exculpatory evidence in connection with his
 9 conviction in case CR 105783. In support of his claim, Petitioner has submitted and relies on a
 10 letter from then District Attorney George Clarke, the statement and declaration of witness Carlos
 11 Sanchez, and the declaration of Jesus Lopez. Petitioner claims that had his attorney, Mr.
 12 Mangarin, discovered this information, he could have used it to support Petitioner's claim of
 13 innocence in case CR 105783, and to attack the validity of the plea in case CR 105783 on
 14 *Boykin/Tahl* errors to prevent a life sentence in case SCD 112436 under the three strikes law.

15 The Petition is denied for the reasons set forth herein.

16 **A. *Issues Subject to Appeal and/or Raised and Rejected on Appeal***

17 Habeas Corpus cannot serve as a second appeal, and matters that were raised and rejected
 18 on appeal are not cognizable on state *habeas corpus* in the absence of special circumstances. (*In*
 19 *re Huffman* (1986) 42 Cal.3d 552, 554-55; *In re Terry* (1971) 4 Cal.3d 911, 927.) Moreover,
 20 habeas corpus cannot serve as a substitute for an appeal, and that matters that "could have been,
 21 but were not, raised on a timely appeal from a judgment of conviction" are not cognizable on
 22 habeas corpus in the absence of special circumstances warranting departure from that rule. (*In re*
 23 *Clark* (1993) 5 Cal.4th 750, 765 [quoting *In re Dixon* (1953) 41 Cal.2d 756, 759; *In re Walker*
 24 (1974) 10 Cal.3d 764, 773.)

25 Petitioner's ineffective assistance of counsel claim is based primarily on restatements and
 26 reformulations of arguments previously made and rejected by the Court of Appeal. Further, all
 27 of the issues raised by the instant Petition either were, or could have been, raised by Petitioner at
 8 the appellate court. As no "special circumstances" are present in this case, and Petitioner has

Exh. A12

presented no justification warranting review on habeas corpus, his claim may also be denied on this basis as well.

B. Successive Petitions are Improper

Unless a petitioner can justify the filing of numerous habeas corpus petitions, the reviewing court may summarily deny the current petition in its entirety. (*In re Clark* (1993) 5 Cal.4th 750, 767-75 ["In this state a defendant is not permitted to try out his contentions piecemeal by successive proceedings attacking the validity of the judgment against him."] (*Id.* [quoting *In re Connor* (1940) 16 Cal.2d 701, 705].)

Petitioner elected to seek habeas corpus relief in this court, the Court of Appeal, and the California Supreme Court. [Court of Appeal, 4th App. Dist., Div. 1, D041226 dated February 6, 2003; also D041639 dated May 5, 2003; and California Supreme Court, S125591, dated June 8, 2005.] None of the issues now asserted by Petitioner involve facts unknown to him at the time they occurred, at the time of the filing of his appeal, or when he sought habeas corpus relief in this court, the Court of Appeal, or the Supreme Court. The instant petition could be denied on that ground alone.

C. The Petition is Untimely

Additionally, the Petition may be denied as untimely. Petitioner has the burden of explaining any substantial delay in the making of his claim. (*In re Swain* (1949) 34 Cal.2d 300, 304; *In re Clark* (1993) 5 Cal.4th 750, 765.) Petitioner has the burden of establishing (1) absence of substantial delay, (2) good cause for the delay, or (3) that his claims fall within an exception to the timeliness bar. (*In re Robbins* (1998) 18 Cal.4th 770, 780.)

Here, Petitioner was convicted in case SCD 112436 in 1995. Any claim concerning Mr. Magarin's representation of Petitioner in connection with that case arose in 1995. Yet, Petitioner waited over 10 years to raise the present ineffective assistance of counsel claim. Petitioner does not set forth any justification for considering the Petition, despite the fact that it was filed more than 10 years after Petitioner was convicted. Thus, the Petition may likewise be denied on this basis.

/ / /

Exh. A12

D. *Petitioner Failed to Establish a Prima Facie Ineffective Assistance of Counsel Claim.*

Lastly, Petitioner has failed to meet his burden to establish that he received ineffective assistance of counsel. Petitioner asserts that Mr. Mangarin failed to properly investigate Petitioner's underlying conviction in case CR 105783. Specifically, he contends that had Mr. Mangarin thoroughly investigated the court files, client files, and prosecutor files in case CR 105783 he would have discovered: 1) the *Boykin/Tahl* errors; 2) a statement (witness interview) and declaration from witness Juan Carlos Sanchez, who stated that Petitioner was not the perpetrator in case CR 105783; 3) that the victim recanted his prior identification of Petitioner as the perpetrator in case CR 105783; and 4) prosecutorial misconduct when the prosecutor cross-examined Petitioner with what purported to be the change of plea form from case CR 105783, and no such change of plea form existed in CR 105783.

Whether Petitioner was denied effective assistance of counsel is a two prong test. (*Strickland v. Washington* (1984) 466 U.S. 668, 687 [80 L.Ed.2d 674, 693]; *People v. Ledesma* (1987) 43 Cal.3d 171, 216.) First, Petitioner must show that counsel's representation was deficient, in that it "fell below an objective standard of reasonableness . . . under prevailing professional norms." (*Ledesma, supra*, at p. 216, citing *Strickland, supra*, at p. 688.) This first prong is reviewed under a standard of deferential scrutiny. (*Strickland, supra*, at p. 689; *Ledesma, supra*, at p. 216.) Counsel is given the benefit of a strong presumption that his or her conduct fell within the "wide range of reasonable professional assistance." (*Id.*) "A fair assessment of attorney performance requires that every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time." (*In re Marquez* (1992) 1 Cal.4th 584, 603, citing *Strickland, supra*, at p. 689.) Strategic decisions made by counsel after a reasonable investigation into the alternatives should be given deference by the courts. (*People v. Pennsinger* (1991) 52 Cal.3d 1210, 1280.) Petitioner has shown neither deficient performance nor prejudice.

Here, Petitioner has failed to demonstrate that Mr. Mangarin's performance was deficient in any way. Although Petitioner relies on the lack of notations in Mr. Mangarin's file pertaining

Exh. A12

1 to the investigation of Petitioner's prior conviction, merely citing to the absence of a notation in
2 a file does not establish that Mr. Mangarin did not adequately investigate the prior conviction.

3 Nor do the documents relied on by Petitioner from Mr. Sanchez, the District Attorney and
4 Mr. Lopez support his claims of ineffective assistance of counsel. The interview of Mr. Sanchez
5 was conducted in 1989, by an investigator, and according to Petitioner contained within either
6 the prosecutor's file or a "client file" in case CR 105783. However, Petitioner has not
7 established that Mr. Mangarin was aware of the existence of this document or cited to any
8 authority to support that he had a duty to discover its existence.

9 As to the remaining documents submitted by Petitioner, Mr. Sanchez's declaration
10 executed in 2001, the letter from the District Attorney dated May 21, 2003, or the declaration of
11 Jesus Lopez executed on May 20, 2004, *none* of these documents were in existence at the time
12 of Mr. Mangarin's representation of Petitioner. Nor is there any evidence to support that Mr.
13 Mangarin should have or could have known that Mr. Sanchez or Mr. Lopez had any information
14 relevant to Petitioner's defense in case SCD 112436 in 1995.

15 Additionally, Petitioner has failed to provide any authority to support his belief that Mr.
16 Mangarin had an obligation to comb through numerous documents, court records, and prosecutor
17 files, and conduct an independent investigation as to the truth of the factual allegations
18 supporting Petitioner's prior conviction in CR 105783. Thus, Petitioner has not presented any
19 facts, evidence, nor authority which would establish that Mr. Mangarin's performance in
20 connection with his representation of Petitioner was deficient.

21 Further, Petitioner has failed to establish any prejudice resulted from any of the alleged
22 errors. In fact, Petitioner does not even *address* the requisite showing of prejudice by
23 establishing how the outcome of the proceedings would have been different absent any of the
24 alleged errors. One fails to state a prima facie case when he cannot demonstrate any prejudice
25 resulting from counsel's alleged errors or omissions. (*Strickland, supra*, 466 U.S. 668, 687.)
26 Specifically, with regard to the prosecutor's alleged misconduct by reference to the change of
27 plea form (which according to Petitioner was really his jury waiver form) that did not exist in
28 case CR 105783, Petitioner has not demonstrated how this resulted in any prejudice to him.

1 Likewise, as to the alleged *Boykin/Tahl* error, since the Court of Appeal held that
 2 Petitioner's "slow plea" in CR 105783 was voluntary and intelligent, Petitioner cannot establish
 3 that he suffered any prejudice by Mr. Mangarin's alleged failure to investigate Petitioner's claim
 4 to the contrary. [Court of Appeal, 4th App. Dist., Div. 1, D041226 dated February 6, 2003.]
 5 Therefore, his claim of ineffective assistance of counsel may be denied on this basis as well.

6 Petitioner's request for the appointment of counsel is also denied. The United States
 7 Supreme Court has never held that prisoners have a constitutional right to counsel when
 8 mounting collateral attacks upon their convictions. (*Pennsylvania v. Finley* (1987) 481 U.S. 551,
 9 555 citing *Johnson v. Avery* (1969) 393 U.S. 483, 488.) Similarly, the California Supreme Court
 10 does not require the appointment of counsel for an indigent petitioner unless he or she makes
 11 "adequately detailed factual allegations stating a prima facie case for relief." (*People v. Barton*
 12 (1978) 21 Cal.3d 513, 519 fn.3; *People v. Shipman* (1965) 62 Cal.2d 226, 232.) No such
 13 showing has been made in this case.

14 Therefore, this Petition is DENIED for the reasons set forth above.

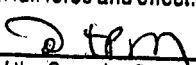
15 It is further ordered that a copy of this Order be served upon Petitioner and the Appellate
 16 Division of the San Diego Office of the District Attorney.

17 IT IS SO ORDERED.

18
 19 DATED: NOV 2 2005


 DAVID M. GILL
 JUDGE OF THE SUPERIOR COURT

21 I hereby certify that the foregoing instrument is a
 22 full, true & correct copy of the original on file in
 this office, that said document has not been revoked,
 annulled or set aside, and it is in full force and effect.

23 Attest: NOV 02 2005 
 24 Clerk of the Superior Court of the State
 of California, in and for the County of San Diego

25 By  Deputy
 26
 27
 28



Salceda's motions for appointment of counsel and for further discovery are denied.
The petition is denied.


McCONNELL, P. J.

Copies to: All parties

Exh. A13

COURT OF APPEAL - FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

FILED
Stephen M. Kelly, Clerk
APR 20 2006
Court of Appeal Fourth District

In re LEOVARDO SALCEDA

D048000

on

(San Diego County
Super. Ct. No. SCD 112436)

Habeas Corpus.

THE COURT:

The petition for a writ of habeas corpus has been read and considered by Presiding Justice McConnell and Associate Justices Benke and Nares. We have taken judicial notice of the prior petition D041226.

Leovardo Salceda is serving a 26-year sentence on a 1995 conviction for kidnapping with a strike enhanced by two five-year terms for prior serious felony convictions. He claims a 1989 robbery conviction (CR105783) should not have been used to enhance the sentence imposed in 1995 because he agreed to a slow plea but was never informed of his right against self-incrimination and his right to cross-examine witnesses. This argument was raised and rejected in Salceda's prior petition and will not be reviewed on a subsequent petition.

Salceda claims he has new evidence showing he did not commit the 1989 robbery. He offers the declaration of Juan Sanchez dated November 15, 2001, stating that Salceda was drunk at the time of the "incident" and tried to stop the robbery. Salceda also offers the declaration of his crime partner Jesus Lopez dated May 20, 2004, stating that Lopez alone robbed the victim and Lopez ordered Salceda to rob the gas station clerk. The declarations do not exonerate Salceda or undermine the conviction.

Exhibit A13





Superior Court of California County of San Diego

CENTRAL COURTHOUSE
220 W. BROADWAY
PO BOX 120128
SAN DIEGO CA 92112-0128

October 16, 2006

Leovardo Salceda J-90933
CVSP B3 260 Low
P.O. Box 2349
Blythe, CA. 92226

RE: Request for discovery
SCD 112436 / CR 105783

Dear Mr. Salceda:

The Court is in receipt of your letters of August 16 and August 22, 2006, in which you ask the Court to provide you with certain items of "discovery" from the Court file and specifically the fingerprint records of a third party.

Both of those requests would be denied because you are not entitled to this material almost ten years after the final sentencing in this matter. Penal Code § 1054.9(a) states in full: "Upon the prosecution of a postconviction writ of habeas corpus or a motion to vacate a judgment *in a case in which a sentence of death or of life in prison without the possibility of parole has been imposed*, and on a showing that good faith efforts to obtain discovery materials from trial counsel were made and were unsuccessful, the court shall, except as provided in subdivision (c), order that the defendant be provided reasonable access to any of the materials described in subdivision (b)." (Emphasis added)

The emphasis was added above because the record shows that you did not receive a sentence of death or a term of life without the possibility of parole. In fact, you received a determinate term set specifically at 26 years. Therefore, this discovery statute does not pertain to you and there is no other post-conviction statute that applies to a prisoner sentenced to a determinate term.

Moreover, there are certain privacy rights that must be considered when personal records of any third party are sought, even when seeking pre-trial discovery. You may not obtain the fingerprint records of any third party simply because you believe that person may have committed the crime for which you were convicted.

The record shows that you have had two appeals plus numerous habeas corpus petitions already in this case which provided you with more than the usual amount of opportunities to attack the conviction in this case. In fact, the record shows that you have been successful in reducing an indeterminate 35 years-to-life sentence to a determinate 26 year sentence, which indicates that you have already had the chance to present your evidence. Finally, as you have already been told, unless you can justify the filing of successive habeas corpus petitions, any new petition can be summarily denied. In Re Clark (1993) 5 Cal.4th 750, 767.

Sincerely,
San Diego Superior Court

Exhibit A14





Superior Court of California County of San Diego

CENTRAL COURTHOUSE
220 W. BROADWAY
PO BOX 120128
SAN DIEGO CA 92112-0128

November 15, 2006

Leovardo Salceda J-90933
CVSP B3 260 Low
P.O. Box 2349
Blythe, CA. 92226

RE: Renewed request for discovery
SCD 112436 / CR 105783

Dear Mr. Salceda:

The Court is going to assume that the letter it sent to you on or about October 16, 2006 (copy enclosed) crossed in the mail with the motion and attachment you sent on or about October 30, 2006.

The Court's letter fully set forth the reason why you are not now entitled to any of the "discovery" you are seeking so long after your case has closed.

If you did receive that letter and then filed this renewed request anyway, the Court is confused as to what it is that you did not understand. Certainly, the October 16, 2006, letter was not an invitation to ignore its contents and to refile the same material again as if the law set forth did not apply to you.

If you believe that for some reason you are entitled to the material you seek, it is suggested that you contact an attorney licensed by the State of California to assist you. The Court will not respond to any similar request for discovery in the future unless you can show legal authority that you are entitled to this material.

Sincerely,

San Diego Superior Court

Exhibit A15

S150480

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re LEOVARDO SALCEDA on Habeas Corpus

The petition for writ of habeas corpus is denied.

SUPREME COURT
FILED

SEP 25 2007

Frederick K. Ohlrich Clerk

Deputy

GEORGE

Chief Justice

Exhibit A16



S 162914

Leovardo Salceda J-90933
CVSP, D9-237 Low
P.O. Box 2349
Blythe, CA 92226

In pro per

RECEIVED

APR 23 2008

CLERK SUPREME COURT

CALIFORNIA SUPREME COURT

**SUPREME COURT
FILED**

APR 23 2008

Frederick K. Ohlrich Clerk

Deputy

S _____

In re LEOVARDO SALCEDA,

Petitioner,

PETITION FOR REVIEW

(Evidentiary Hearing Requested)

On Habeas Corpus:

Fourth Appellate District, Division One, No. D052224

PETITION FOR REVIEW

Exhibits

- B Conflict of Interest, SCD112436, 8-11-95
- B1 Dr. Smith's Psychiatric Evaluation, SCD112436, 8-9-95
- B2 Petitioner's Testimony in SCD112436, 9-27-95, Claim of Innocence of Prior Robbery CR105783
- B3 First Piece of Exculpatory Evidence, Juan Carlos Sanchez's Declaration of Prior Robbery CR105783, 11-15-01
- B4 Second Piece of Exculpatory Evidence, Victim Witness, Rafael Haro's Misidentification of Petitioner (George W. Clarke, Deputy District Attorney) Prior Robbery CR105783 5-21-03
- B5 Third Piece of Exculpatory Evidence, Juan Carlos Sanchez's Tape Recorded Statement, 8-15-89, Prior Robbery CR105783
- B6 Fourth Piece of Exculpatory Evidence, Jesus H. Lopez (Actual Robber) 5-20-04, Prior Robbery CR105783
- B7 Fifth Piece of Exculpatory Evidence, Jesus H. Lopez (Actual Robber) 7-19-06, Prior Robbery CR105783
- B8 Sixth Piece of Exculpatory Evidence, Supplemental Declaration of Jesus H. Lopez's "Fingerprints" 11-28-06, Prior Robbery CR105783
- B9 Petitioner's Open Court Declaration, SCD112436, RT 14-21, 6-12-97, Claim of Innocence, Prior Robbery CR105783
- B10 Prior Robbery CR105783: Minutes of Slow Guilty Plea, 10-2-89, 10-3-89, Boykin-Tahl Error, Prior Robbery (Submission of Preliminary Hearing, Haro's Testimony) (Cespedes Testimony); Jury Waiver for Slow Guilty Plea, 10-3-89, Boykin-Tahl Error, Prior Robbery; Abstract of Judgment, Sentence of Two Robberies, 11-2-89, Prior Robbery CR105783
- B11 Certified Documents To Prove Prior Robbery Case and Prior Assault W/D/W Case at Trial on Priors, 10-4-95
- B12 Criminal Minutes of Denial of Pen. C. 995 and 1385 Motions
- B13 Declaration of Carmen Lopez, 11-23-05 (Robbery Case)
- B14 Declaration of Angie Camarena, 11-23-05 (Robbery Case)

conflict

1 San Diego, California, August 11, 1995, 9:06 a.m.

2 *****

3 THE CLERK: People of the State of California
4 versus Leoardo Salceda.

5 MR. RUNNING: Michael P. Running, Jr., on behalf
6 of the People.

7 MR. VANESIAN: Ron Vanesian, office of the public
8 defender, criminal adult division, on behalf of
9 Mr. Salceda.

10 In this matter, criminal adult division
11 does have a conflict of interest.

12 THE COURT: Which gentleman is Mr. Salceda?

13 MR. VANESIAN: This is Mr. Salceda.

14 THE COURT: Mr. Salceda, your attorney has a
15 conflict of interest and can't represent you on this
16 case. That means I'll have to bring in another
17 attorney to represent you. Do you understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Okay. That means we would put your
20 readiness conference over to September the 15th and
21 reschedule your trial for September 25th. Do you
22 understand that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Okay. We're presently scheduled for
25 next Monday.

26 MR. VANESIAN: That's correct, your Honor.

27 THE COURT: Do you understand you have a right to
28 trial in 60 days from your arraignment in Superior

Exhibit B

E

71

34

1 Court? Do you understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Do you waive that right and agree to
4 put your trial over to September 25th?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: So ordered. And you will be
7 relieved -- your office will be relieved and new
8 counsel will be appointed.

9 MR. VANESIAN: I believe it's going to be
10 alternate public defender, your Honor.

11 THE COURT: Yes. As far as we know, they have no
12 conflict; correct?

13 MR. VANESIAN: That's my understanding, your
14 Honor. I will provide the file to them today.

15 THE COURT: I appreciate that.

16 MR. VANESIAN: Thank you, your Honor.

17 (Whereupon, the hearing concluded.)

18

19

20

21

22

23

24

25

26

27

28

Exh. B

85 72





Clark E. Smith, M.D.

DIPLOMATE AMERICAN BOARD OF PSYCHIATRY AND NEUROLOGY

591 Camino de la Reina, Suite 1020
San Diego, California 92108
(619) 226-5214

FORENSIC PSYCHIATRIC EVALUATION**Subject:** Leovardo Salceda**Date of Birth:** August 20, 1969**Attorney:** Ronald Vanesian, Deputy Public Defender**Date of Evaluation:** August 9, 1995**Case No.:** SCD 112436

Reason for Evaluation: Leovardo Salcedo was evaluated at the request of his attorney, Ron Vanesian, Deputy Public Defender, regarding his current psychiatric diagnosis, and his psychiatric condition at the time of the instant offense.

SOURCES OF INFORMATION: Arrest reports from officers Pechin and Collier, followup investigative reports from Detectives' Miller and Lovetere, with witness interviews of Jesse Guerrero, Gabriella Murgo, Jessie Marquez, and statements from the victim, Russell Champion, forensic psychiatric evaluation by Charles Rabiner, M.D., and previous arrest records.

SYNOPSIS OF INSTANT OFFENSE: Leovardo Salceda was drinking heavily on Sunday morning, April 23, 1995. He was noted by several people to be intoxicated and was thrown out of a bar when they refused to serve any more alcohol because he was too intoxicated and his conduct was disorderly. He then apparently, staggered in front of a car in traffic, appeared to be upset because the car nearly hit him, then abruptly jumped in through the open passenger window, threatened the driver with his fists, then demanded that the driver take him home. In the course of a brief ride, he struck the driver several times in the face with his fist, breaking his glasses and causing a facial laceration. The driver drove to his own home, then abandoned his car and the defendant was observed by a neighbor to be extremely intoxicated. Mr. Salceda states that he has no memory for any of these events starting shortly after he entered the bar, until he woke up handcuffed in the back of a police car, intoxicated and soaked with urine.

It is important to note that Mr. Salceda has a well documented severe alcohol abuse problem, with a history of multiple blackouts, and that his previous arrests have all been alcohol related. Because of these recurrent alcohol related felonies, he now falls

Exhibit B1

0059 ~~0199~~Salceda, L.
Page 2

under the 'three strikes' legislation.

MENTAL STATUS EXAMINATION: General Appearance: Mr. Salceda was seen in the professional interview room at the George Bailey Detention Facility on August 9, 1995. The interview was audiotaped. He was clean shaven, well groomed, and pleasant and polite on approach. He appeared to be tired and under stress, but there was no evidence of involuntary movement disorder, or marked psychomotor agitation or psychomotor retardation. He was forthright, with no evidence of evasion or manipulation noted. Speech: The pattern of speech was clear and well organized. There was some limitation in the range of vocabulary, however, he was able to express himself well. He would, at times, use phrases in Spanish, then translate into English. Affect: The subject appears to be depressed and is tearful and choking away tear at times. He seems quite disappointed and ashamed of his behavior and expresses deep regrets about his alcohol problems. Thought Content: The subject denies current suicidal ideation but admits to feeling preoccupied with suicide in November, 1994, with thoughts of jumping from a freeway overpass to kill himself at that time. He states that he was despondent over a recent alcohol relapse and this led to his suicidal preoccupation. He denies auditory or visual hallucinations, but admits to feeling paranoid at times when drinking, fearing that his wife was planning to leave him or having an affair with another man. He talks about being depressed and describes symptoms of insomnia, decreased appetite, decreased energy, decreased concentration, and depressed mood. He had constant tearfulness, unable to stop crying until mid-July, 1995, with some improvement since that time. He states that he felt great in July through October, 1994, because he was taking Antabuse and not drinking, however, he has had recurrent feelings of depression since that time. His insight and judgment regarding his alcohol abuse and inability to tolerate any alcohol has been chronically impaired through most of his life. He seems to have a sincere to be free of alcohol at this time, and appears to be willing to go any means necessary to stop his pattern of recurrent alcohol abuse. Cognitive Function: The subject is alert and oriented times three; short and long term memory appears to be intact.

PAST PSYCHIATRIC HISTORY: He states that he was diagnosed as having depression and antidepressant medication, Elavil, was recommended by the staff psychiatrist at the detention facility. He has been afraid to take Elavil, afraid that he would be, "drugged out", and too sedated to assist his attorney in his case, as he says he has seen in other inmates who are, "too drugged out". He denies previous psychiatric treatment.

PAST CHEMICAL DEPENDENCY HISTORY: He has attended AA meetings, directed by alcoholic peers while in the detention facilities, and he has tried to attend lectures after being arrested for driving under the influence in December, 1994. He states that he also voluntarily sought out Antabuse treatment from a doctor at the St. Vincent DePaul clinic. He has not had any previous exposure to a chemical

Exh. B1

0060

0200

Salceda, L.
Page 3

dependency rehabilitation program, was not treated in chemical dependency rehabilitation prior to release from incarceration, has not been recommended to move into a alcohol halfway house or recovery house, and was not recommended for ongoing chemical dependency counseling. No treatment for alcoholism was required as a condition of his probation, in spite of multiple incarcerations for alcohol related problems. His wife was not counseled regarding the hazards of alcohol use nor was the Al-Anon support group for wives recommended. He states that he sincerely admires the alcoholics he met at AA meetings who had stopped drinking and wanted to be like them, however, he is quite discouraged secondary to his repetitive failures, even though he has never received systematic therapy in order to develop skills to maintain an alcohol free lifestyle.

FAMILY HISTORY: The subject states that his mother is a severe alcoholic, with a longstanding history of recurrent alcoholic blackouts. He states that his mother suffered a stroke and was hospitalized, though she was recently released and has not resumed drinking at this time. His earliest childhood memories of his mother are of heavy alcohol related parties at their house, with lots of music and many bottles of Thunderbird wine.

PREVIOUS ARRESTS: The subject states that he was drinking heavily and was involved in an auto theft and robbery while under the influence and peer pressure from his friend in 1989. He was arrested again in 1992, when he apparently threw a brick at someone during a fight. He has no recollection of this because he was in an alcoholic blackout at that time. He states that he was arrested for driving under the influence in December, 1994, and apparently had a blood alcohol level of .3, severely intoxicated, more than three times the legal limit.

PSYCHIATRIC DIAGNOSIS:

Axis I: Alcohol Dependency (with recurrent binges and history of alcoholic blackouts).

Major Affective Disorder, Depressed, recurrent.

Axis II: Antisocial Personality Traits (may be secondary to chemical dependency).

Axis III: History of Multiple Head Trauma

Stressors, Severe, secondary to recurrent marital, occupational, and liver problems secondary to alcohol abuse.

Global Assessment of Function (GAF) at the Time of the Instant Offense:

Exh. B1

0061

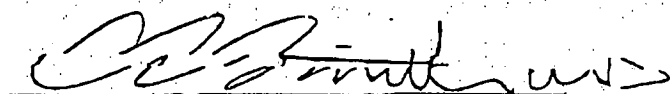
0201

Salceda, L.
Page 4

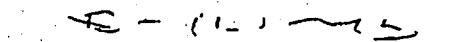
Estimated at 20.

Current GAF Estimated at 60.

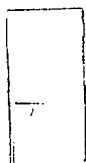
DISCUSSION: The defendant was clearly under the influence of alcohol at the time of the instant offense, with severe intoxication documented by several witnesses. With his history of recurrent alcohol related blackouts it is likely that he was indeed suffering an alcoholic blackout at the time of the instant offense. He appears to be quite credible and consistent in his description of the events leading up to the offense, and in my opinion, was experiencing an alcoholic blackout and met the legal criteria for unconsciousness at the time of the instant offense.



Clark E. Smith, M.D., F.A.P.A.
General and Forensic Psychiatry


Date

Exh. B1



false
plea
form

1 Q. So you would agree with me that's another
2 incident of you being argumentative, at least --

3 A. No.

4 Q. -- when you're drunk and you don't remember
5 it?

6 A. No, sir.

7 Q. Why wouldn't you agree with me?

8 A. Because in jail people pick on you.

9 Q. So you're naturally argumentative and
10 aggressive in jail?

11 A. You have to be.

12 Q. So you were doing what comes naturally, even
13 though you don't remember it?

14 A. No.

15 Q. Your prior conviction was for two different
16 robberies as well as a car theft in 1989, wasn't it?

17 A. It was one case, sir.

18 Q. It was two victims, wasn't it?

19 A. Yes.

20 Q. It was two robberies, wasn't it?

21 A. Yes.

22 Q. And a car theft?

23 A. No, the robbery was the car theft, I think.

24 I think. I'm not really sure. I didn't do the first
25 robbery.

26 Q. But you pled guilty to a robbery you didn't
27 do?

28 A. Yes.

Exhibit B2

C

1 Q. And you served time on a robbery you didn't
2 do?

3 A. Yes, sir.

4 Q. You never mentioned this to anybody?

5 A. Well, they told me they would give me eight
6 years if I didn't plead, and I didn't want the eight
7 years.

8 Q. Well, both of those robberies occurred
9 within 15 minutes of each other, didn't they?

10 A. Yes.

11 Q. And you're saying you did one but not the
12 other?

13 A. Yes.

14 Q. Which one didn't you do?

15 A. The reason I'm not answering right away is
16 I'm trying to think. Ask me again, the question.

17 Q. Which robbery didn't you do that you pled
18 guilty for? Which one of the two that occurred within
19 15 minutes of each other?

20 A. The first one.

21 Q. The carjacking, the one where you -- the car
22 theft --

23 A. It was not a carjacking.

24 Q. So you robbed a gas station, but you didn't
25 steal the guy's car, is that what you're telling me?

26 A. I have two. That was the first case in
27 1989. I was 18 years old.

28 Q. It's not my question.

Exh. B2

1 A. I don't understand what you're trying --

2 Q. My question to you is, do you or do you not
3 admit that you were convicted --

4 A. I said yes already, sir.

5 Q. -- of two robberies and a car theft?

6 A. They gave me two strikes for that.

7 Q. Do you or do you not admit you were
8 convicted of two robberies and a car theft?

9 A. I pled guilty to two robberies.

10 Q. And a car theft.

11 Let's see if you recognize your signature
12 on a change of plea form. Do you see the name there
13 where it says Leovardo Salceda?

14 A. Yes, sir.

15 Q. Is that your signature?

16 A. Yes, sir.

17 Q. And that's your signature on a change of
18 plea form, court number CR105783, isn't it?

19 A. Yes, sir.

20 Q. And isn't it a fact that you see here,
21 robbery, robbery, unlawful taking of a vehicle. That's
22 what you pled to?

23 A. But I didn't take the car.

24 Q. You didn't take the car then and you don't
25 remember what you did now; is that what you're telling
26 me?

27 A. No.

28 Q. And you don't remember anything except for

Exh. B2

November 15, 2001

Juan Sanchez #K-08877
44750 60th St. West
Lancaster, CA 93536

To whom it may concern,

I know Leovardo Salceda (Leo) since we were younger and he is my friend. On June 30, 1989 I was going to visit a friend on 61st Street. I seen Leo and we said hi and were talking. And I noticed Leo was very drunk. As we were talking an incident happened with Rafael Haro and Leo was trying to stop it.

Leo was drunk and was not driving the car.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 15th day of November, 2001 at Lancaster, California.

Respectfully,

Juan Sanchez
Juan Sanchez





JESUS RODRIGUEZ
ASSISTANT DISTRICT ATTORNEY

OFFICE OF
THE DISTRICT ATTORNEY
COUNTY OF SAN DIEGO

BONNIE M. DUMANIS
DISTRICT ATTORNEY

330 WEST BROADWAY, SUITE 1300
SAN DIEGO, CA 92101
(619) 531-3544

<http://www.sandiegoda.com>

May 21, 2003

Leovardo Salceda, J90933
B3-164
P.O. Box 2349
Blythe CA 92226

Re: *People of the State of California v. Salceda*, CR105783/DA B62621

Dear Mr. Salceda:

We are in receipt of your letter dated March 18, 2003, requesting discovery in the above case. Mr. Haro provided brief information to this office on October 3, 1989, indicating that he had mis-identified you as the person who had robbed him. He stated on that same date that he had no intention of coming to court at your trial and that he resided in Tijuana, Mexico. The information from Mr. Haro was not reduced to a report, but only noted in your case file.

The information provided by Mr. Haro was immediately provided to your attorney at that time, Mr. William Youmans, at the time of your trial. If you require further information please contact the Office of the Public Defender of San Diego County.

Thank you for your inquiry.

Yours very truly,

GEORGE W. CLARKE
Deputy District Attorney



DATE: 8-15-89
INVESTIGATOR: LES WALDEN
DEFENDANT: LEVORADO SALCIDA
WITNESS: JUAN CARLOS SANCHEZ
INTERVIEW CONDUCTED AT: JUVENILE HALL

MR SANCHEZ DO I HAVE YOUR PERMISSION TO CONDUCT THIS INTERVIEW ON TAPE?

YES

OK, IF I COULD ASK YOU TO SPEAK UP A LITTLE BIT FOR THE TAPE RECORDER

YES

COULD YOU SPELL YOUR LAST NAME

S-A-N-C-H-E-Z

AND WHAT IS YOUR DATE OF BIRTH?

APRIL 16, 1974

OK, ARE YOU THE PERSON THAT WAS ROBBED WITH MR. RAFAEL HARO ON THE NIGHT OF JUNE 30TH?

YES

DID THE OFFICERS OF THE SAN DIEGO POLICE DEPARTMENT INTERVIEW YOU ABOUT THIS?

YES

OK. DID THEY ASK IF YOU KNOW A PERSON NAMED LAVARDO SALCIDA?

YES

WHAT I'M GOING TO DO NOW, MR. SANCHEZ IS GO THROUGH YOUR STATEMENT YOU MADE TO THE POLICE. YOU TOLD THE OFFICERS ON THIS DATE THAT YOUR NAME WAS JUAN CARLOS SANCHEZ AKA "CHINO" OF THE PARADISE HILLS LOCO GANG

YES

THAT YOU ALSO KNEW ONE OF THE SUSPECTS KNOWN LEO, DID YOU TELL THEM THAT ONE OF THE PERSONS THAT TOOK THE CAR WAS LEO?

NO BECAUSE THEY WERE ASKING ME ABOUT LEO OR SOMETHING, LIKE THEY TOLD ME IF I KNEW AND I SAID YES, BUT THEY TOLD ME IF HE WAS ONE OF THEM THAT HAD ROBBED 'EM AND I SAID "NO" THE ONE THAT HAD ROBBED *****, THE ONE I HAD SEEN GOING DOWN THE STREET WITH THE CAR WAS, HAD BROWN HAIR AND LEO WAS BALD AT THE TIME.

OK. HOW DO YOU KNOW LEO?

'CAUSE I KNOW HIM WHEN I WAS YOUNGER AND STUFF.

OK, AND YOUR STATEMENT IS THAT YOU WERE ASKED BY THE POLICE IF YOU KNEW OF A LEO?

YES

AND YOU SAID YES YOU KNEW LEO

YES

BUT YOU SAID THAT THE LEO WAS NOT THE PERSON WHO TOOK THE CAR THAT NIGHT?

YES

HOW MANY PHOTOGRAPHS DID THE OFFICER SHOW YOU THAT NIGHT?

ABOUT TWO OR THREE

TWO OR THREE? AND WHAT TIME OF NIGHT WAS IT?

IT WAS AT NIGHT AT ABOUT NINE OR TEN WHEN THEY TOOK US HOME

OK, DID THE OFFICER POINT OUT TO ANY SPECIFIC PICTURE WHEN THEY SHOWED YOU THOSE PHOTOGRAPHS?

NO, THEY JUST SHOWED ME SOME PICTURES AND THEY SAID IF IT WAS LEO AND I SAID "YES THAT'S LEO BUT I, I, I SAID THAT WASN'T THE GUY THAT STOLE THE CAR"

OK. IN THE REPORT THAT THE POLICE MADE IT SAYS THAT AT ABOUT MIDNIGHT ON 30TH OF JUNE THEY WENT TO YOUR HOUSE, IS THAT CORRECT?

YES

AND THEY SPOKE WITH YOU AND ONE OF THE OFFICERS SHOWED YOU A PHOTOGRAPH OF LEOVARDO SALCIDA AND HE ASKED YOU "DO YOU KNOW HIM" WHAT DID YOU SAY?

I SAID THAT'S ***** LEO

OK. THEN IT SAYS THAT YOU STEPPED BACK AND SAID "THAT'S HIM, THAT'S HIM, THAT'S LEO" DID YOU MAKE THOSE STATEMENTS?

YES

YOU DID SAY THAT "THAT'S HIM, THAT'S HIM, THAT'S LEO"?

NO I DIDN'T SAY "THAT'S HIM, THAT'S HIM" I SAID THAT'S HIM, THAT'S LEO" BUT I DIDN'T SAY, I DIDN'T SAY THAT THAT'S THE GUY

THAT STOLE THE CAR. 'CAUSE THEY WERE JUST ASKING ME QUESTIONS ABOUT LEO AND I JUST SAID "YES I KNOW LEO" I SAID "THAT'S HIM"

OK, WHAT WERE YOU DOING THAT NIGHT, WERE YOU GETTING A RIDE FROM SOMEONE?

FROM RAFAEL

FROM RAFAEL? WHERE WERE YOU GOING TO?

THEY WERE GOING TO TAKE ME TO MY AUNT'S HOUSE 'CAUSE MY MOM WASN'T AT HOME

OK

AND I WENT TO ***** HOUSE TO USE THE PHONE, BUT NOBODY WAS THERE WHEN I WAS COMING BACK OUT THEY WERE PULLING AROUND THE *****

OK. AND WHERE DOES RAFAEL LIVE AT CURRENT?

T.J.

OK, DO YOU KNOW HIS ADDRESS OR PHONE NUMBER?

NO, I DON'T KNOW HIS ADDRESS BUT I KNOW WHERE HE LIVES

DOES HE HAVE A MOTHER WHO IS WORKING IN THE UNITED STATES?

NO

OK. MR. SANCHEZ I APPRECIATE YOUR COOPERATION IN THIS MATTER, END OF MY INTERVIEW WITH MR. JUAN CARLOS SANCHEZ.



DECLARATION OF JESUS H. LOPEZ IN SUPPORT OF
LEOVARDO SALCEDA'S CLAIM OF INNOCENCE

I, Jesus H. Lopez, declare as follows:

I make the following declaration of facts based on my own knowledge and, if called, can testify competently thereto.

I know and remember the incident that happened on June 30, 1989, on 61st Street in Encanto, San Diego, California, involving myself and the two victims Rafael Haro and Juan Sanchez (first names only).

I was walking on 61st to Lizzy's house. Rafael was sitting in his parked car on 61st. Juan was there too. Leovardo Salceda was standing about thirty (30) feet away. Leovardo was an innocent by-stander. I started a conversation with Rafael and Juan. I complemented the car etc. Rafael asked me if I was interested in buying some marijuana. I said no. I asked Rafael for a free joint (one marijuana cigarette). Rafael said no. I hurried around to the driver side where Rafael was sitting and pointed my gun at him and Juan. I told Rafael to give me the weed (marijuana). I opened the driver door with my free hand and reached and snatched Rafael's necklace and took his watch and \$10. Rafael was standing trying to protect himself.

Leovardo was standing 30 feet away. Leovardo was not in the conversation between Rafael and me about the marijuana. I

did not tell Leovardo that I was going to rob Rafael. I robbed Rafael on my own by myself. After I robbed Rafael, is when Leovardo stepped in with his hands up trying to separate me from Rafael. Leovardo told me to leave Rafael alone, to kick back, and not to shoot him. Leovardo tried to protect Rafael. Leovardo did not take anything from Rafael.

I then got into the driver seat. The marijuana, small baggies of marijuana, were on the driver side floor board. I ordered Leovardo to get into the car. I said get in now. Leovardo got into the passenger seat and told me not to take the car. I ignored Leovardo and drove down 61st, going south, and turned right, going west, on Atkins to Market Street. The streets connect. I drove west on Market and reached Euclid. I made a right, going north, on Euclid and seen Texaco Gas Station on the right side. I pulled into the gas station and seen the attendant at the cash register. Leovardo was telling me to take the car back. I said no. I then ordered Leovardo to take the money from the attendant. Leovardo pleaded he did not want to, but I ordered him again and handed him my gun and Leovardo did as I said and robbed the attendant.

Leovardo got back into the car and I drove out of the gas station and continued north on Euclid. I reached an unknown street and turned and drove up a hill. A car in front of me was

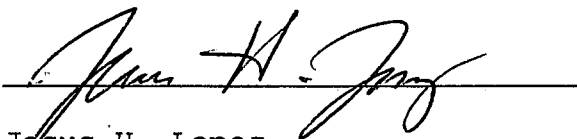
going slow so I rammed it. Leovardo was telling me to stop. I stopped and left the car. Leovardo left the car also.

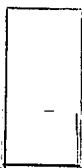
I submit this declaration to the court to explain I am responsible for the two robberies and taking the car. Leovardo was an innocent by-stander and not responsible for the two robberies nor taking the car.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 20, 2004, at San Diego, California.

Respectfully submitted,


Jesus H. Lopez.



Jesus H. Lopez V-34389
P.O. Box 409000
Ione, California 95640

DECLARATION OF JESUS H. LOPEZ IN SUPPORT OF
LEOVARDO SALCEDA'S CLAIM OF INNOCENCE

I, Jesus H. Lopez, declare as follows:

I make the following declaration of facts based on my own knowledge and, if called, can testify competently thereto.

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I was walking on 61st to Lizzy's house. Rafael was sitting in his parked car on 61st. Juan was there too. Leovardo Salceda was standing about thirty (30) feet away. Leovardo was an innocent by-stander. I started a conversation with Rafael and Juan. I complemented the car etc. Rafael asked me if I was interested in buying some marijuana. I said no. I asked Rafael for a free joint (one marijuana cigarette). Rafael said no. I hurried around to the driver side where Rafael was sitting and pointed my gun at him and Juan. I told Rafael to give me the weed (marijuana). I opened the driver door with my free hand and reached and snatched Rafael's necklace and took his watch and \$10. Rafael was standing trying to protect himself.

Leovardo was standing 30 feet away. Leovardo was not in the conversation between Rafael and me about the marijuana. I

did not tell Leovardo that I was going to rob Rafael. I robbed Rafael on my own by myself. After I robbed Rafael, is when Leovardo stepped in with his hands up trying to separate me from Rafael. Leovardo told me to leave Rafael alone, to kick back, and not to shoot him. Leovardo tried to protect Rafael. Leovardo did not take anything from Rafael.

I then got into the driver seat. The marijuan, small baggies of marijuana, were on the driver side floor board. I ordered Leovardo to get into the car. I said get in now. Leovardo got into the passenger seat and told me not to take the car. I ignored Leovardo and drove down 61st, going south, and turned right, going west, on Atkins to Market Street. The streets connect. I drove west on Market and reached Euclid. I made a right, going north, on Euclid and seen Texaco Gas Station on the right side. I pulled into the gas station and seen the attendant at the cash register. Leovardo was telling me to take the car back. I said no. I then ordered Leovardo to take the money from the attendant. Leovardo pleaded he did not want to, but I ordered him again and handed him my gun and Leovardo did as I said and robbed the attendant.

Leovardo got back into the car and I drove out of the gas station and continued north on Euclid. I reached an unknown street and turned and drove up a hill. A car in front of me was going slow so I rammed it. Leovardo was telling to stop. I stopped and left the car. Leovardo left the car also.

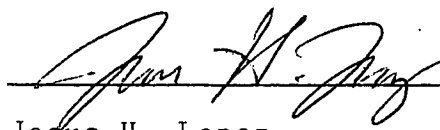
I submit this declaration to the court to explain I am responsible for the two robberies and taking the car. Leovardo

was an innocent by-stander and not responsible for the two robberies nor taking the car.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on JULY, 19TH., 2006, at Ione, California.

Respectfully submitted,

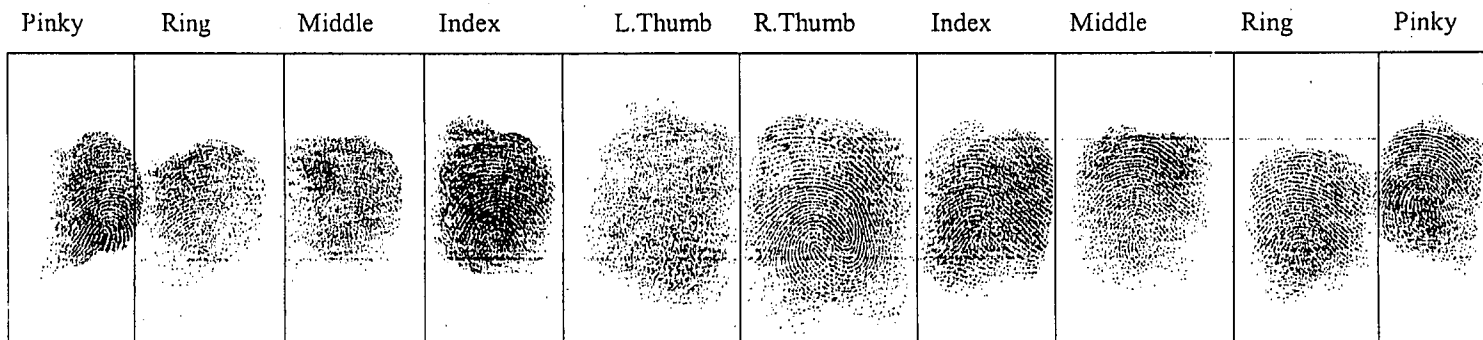

Jesus H. Lopez.

Jesus H. Lopez V-34389
P.O. Box 409000
Ione, California 95640

SUPPLEMENTAL DECLARATION OF JESUS H. LOPEZ
IN SUPPORT OF LEOVARDO SALCEDA'S CLAIM OF INNOCENCE


I, Jesus H. Lopez, declare as follows. I make the following declaration of facts based on my own knowledge and if called can testify competently thereto. This declaration and fingerprints are mine. I submit this declaration in support of Leovardo Salceda's claim of innocence of the robbery of Rafael Haro and of the gas station clerk. Rafael was sitting in his car at about 9 p.m. on June 30, 1989, on 61st Street in San Diego when I robbed him. I took Rafael's necklace, watch, and \$10. And I took Rafael's car from him. I ordered Leovardo to get into the car. Leovardo was reluctant and did not want to follow my orders, but me with a gun in my hand, again ordered Leovardo to get into the car. Leovardo got into the passenger's seat and I drove away. I then drove from 61st to the Texaco Gas Station on Euclid Avenue. I pulled into the gas station and ordered Leovardo to rob the gas station clerk. Leovardo was reluctant and did not want to follow my orders, but me with a gun in my hand pointed at Leovardo, I again ordered Leovardo to rob the clerk and Leovardo did as I ordered. Leovardo got back into the car and I drove away. We abandoned the car right after this. My recent declaration dated July 19, 2006, which Leovardo now has to support his innocence, is an accurate summary of the two robberies of Rafael and the clerk.

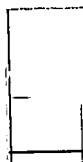
This supplemental declaration is to show my fingerprints for comparison to the prints that were lifted from Rafael's car. I opened the driver's side door at the time I robbed Rafael and drove the car to the gas station at the time of the robbery of the gas station. I did not have any gloves on.



I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on this, NOVEMBER 28TH., 2006, at Ione, California.

Respectfully Submitted,


Jesus H. Lopez, Declarant.



1 WHAT'S THE LIKELIHOOD THAT THE DEFENDANT WILL COMMIT ANOTHER
2 CRIME IF HE GETS OUT? AND IT'S HIGH. IT'S EXTREMELY HIGH
3 BECAUSE -- I HOPE I'M WRONG, BUT I FEEL PRETTY CONFIDENT IN
4 SAYING THAT'S A TOUGH DISEASE TO BATTLE. AND MOST PEOPLE
5 DON'T SUCCEED. AND HE'LL PROBABLY FALL OFF THE WAGON. AND
6 WHEN HE DOES THERE IS GOING TO BE ANOTHER RUSSELL CHAMPION
7 AT AN INTERSECTION. ANOTHER GUY WITH HIS FRIENDS DRIVING
8 DOWN THE STREET, HOMIES, AND MR. SALCEDA WITH A GUN.

9 THE COURT: AFTER TEN YEARS IN STATE PRISON.

10 MR. GROCH: WHEN IS HE GOING TO CHANGE HIS
11 CRIMES THAT STARTED BACK WHEN HE WAS A JUVENILE? HE HAS A
12 RESIDENTIAL BURG FROM '84. WHAT'S CHANGED BETWEEN '84 AND
13 '97? NOTHING. WHY SHOULD ANYTHING WITHIN THE NEXT TWENTY
14 YEARS? THERE'S NOTHING UNUSUAL ABOUT THIS CASE. THE PRIORS
15 ARE SERIOUS. THEY'RE RECENT. THE CURRENT OFFENSE IS
16 SERIOUS AND RECENT. THE DEGREE OF DANGER IS HIGH. I WOULD
17 JUST URGE THE COURT TO RESERVE OF THE EXERCISE OF ITS
18 DISCRETION FOR THOSE CASES THAT TRULY FIT THE DEFINITION OF
19 UNUSUAL ABERRATION. ALL THE TIMES THAT THE COURT EXERCISES
20 ITS DISCRETION SHOULD BE FEW AND FAR BETWEEN AND RESERVED
21 FOR THAT TRULY EXCEPTIONAL CASE.

22 MR. SALCEDA IS A CLASSIC THREE-STRIKES CASE.

23 THE COURT: ALL RIGHT. MR. SALCEDA, DO YOU
24 WANT TO BE HEARD?

25 THE DEFENDANT: YES.

26 THE COURT: GO AHEAD.

27 THE DEFENDANT: THANK YOU FOR LETTING ME

28 SPEAK. I HEARD MR. GROCH'S ARGUMENT. MR. MANGARIN. I'M

1 NOT HERE SAYING FEEL SORRY FOR ME OR ANY OF THAT STUFF. NO.
2 IT DOES BOIL DOWN TO ME AND HOW I GREW UP AND STUFF
3 HAPPENED.

4 THE WAY I WOULD LIKE TO ADDRESS THE COURT IS
5 THAT BEING OVER HERE AND GROWING UP IN THE GANG ENVIRONMENT
6 AND GROWING UP IN A VIOLENT ATMOSPHERE PRODUCED AND LED ME
7 TO MAKE MYSELF THE WAY I BECAME. BUT MY LAST THOUGHT FOR
8 THE LAST YEARS HAVE CHANGED UP AT LANCASTER PRISON WAS THAT
9 I WANT TO GO BACK TO MY NATIVE COUNTRY WHERE A LOT OF PEOPLE
10 DON'T DO THE THINGS THAT HAPPENS OVER HERE AND GROW UP TO BE
11 LIKE ME. WHETHER I GOT CHILDREN OR I DON'T, WHETHER I GOT
12 MY MOTHER OR I DON'T, I THINK I NEED TO START LOOKING OUT
13 FOR ME. I'M NOT GOING TO USE MY CHILDREN OR MY MOTHER OR
14 ANYTHING FOR EXCUSES, BUT IF YOU CAN GIVE ME A CHANCE AT MY
15 LIFE I WOULD ONLY APPRECIATE IT. AND FROM THE HEART. BUT
16 TO SERVE 20 YEARS OR SOMETHING IN PRISON FOR WHAT HAPPENED,
17 REALISTICALLY, I WOULD SAY THAT'S A LOT OF TIME, YOUR HONOR.

18 I'M VERY SORRY. AND I UNDERSTAND MR. GROCH'S
19 ARGUMENT. BUT THERE'S BEEN NUMEROUS TIMES WHEN I HAVE A LOT
20 OF CHANCES TO COMMIT OTHER CRIMES, BUT I CHOSE ON MY OWN NOT
21 TO; NOT TO PICK UP GUNS TO DO WHATEVER AND TO STAB WHOEVER
22 OR WHATEVER. BUT I PUT MYSELF ON THE LINE ON A LOT OF TIMES
23 THERE BECAUSE I SAID, YOU KNOW WHAT, I DON'T NEED TO BE THE
24 OLD PERSON THAT I USED TO BE. I STILL STOOD UP TO SOME
25 PRETTY STRONG PEOPLE IN PRISON, AND I'LL CONTINUE TO DO
26 THAT.

27 I DID A LOT OF THINGS BECAUSE MY HERITAGE
28 DOESN'T MATTER TO ME BECAUSE I KNOW WHAT I WANT TO DO. AND

1 SORT OF I GOT FED UP. IT'S NOT THE U.S. OR CALIFORNIA.
2 IT'S ME. BUT I WAS SORT OF A PRODUCED PERSON SINCE I WAS A
3 LITTLE BOY. I'VE SEEN A LOT OF THINGS. AND THAT'S WHY I
4 SAY I SEE THE -- I HAVE AN ARTICLE IN SPANISH AND I THINK
5 MAYBE IF I GO BACK TO MY NATIVE COUNTRY TO MICHEOCAN. I'VE
6 GOT SOME BROTHERS THERE. AND JUST LEAVE CALIFORNIA.

7 LIKE I SAY, IF I DO GET OUT AND I DRINK AGAIN,
8 WHICH ISN'T GOING TO HAPPEN, BUT I'M GOING TO DO SOMETHING
9 STUPID PROBABLY AND BE BACK IN HERE AND SAYING I'M VERY
10 SORRY. BUT THAT'S NOT WHAT I WANT TO DO. I WANT TO GET ON
11 WITH MY LIFE. AND I'M JUST VERY SORRY, YOU KNOW.

12 MR. CHAMPION, I TOLD HIM I AM VERY SORRY. AND I TRIED
13 EVERYTHING I COULD, BUT IT SORT OF SEEMS THAT MR. GROCH
14 OR -- YOU KNOW, HE KEEPS ARGUING THAT I KEEP SAYING I'M
15 SORRY. WHEN IF I DIDN'T SAY I WAS WHAT COULD THEY SAY? HE
16 DOESN'T EVEN SAY HE'S SORRY.

17 THERE WAS -- A LOT OF TIMES THERE WAS PRUNO
18 THERE OR WHATEVER, WEED, ON THE YARD OR WHATEVER. I SAID,
19 YOU KNOW, THAT'S WHAT GOT ME HERE. THAT'S WHAT GOT ME A
20 LIFE SENTENCE.

21 WHERE MY CHILDREN ARE AT, I DON'T KNOW TO THIS
22 DAY. THEY'RE BEING RAISED BY I DON'T EVEN KNOW WHO. MY
23 MOTHER IS IN CUSTODY. SHE USED THE EXCUSE OF PRISON BECAUSE
24 I CAME TO PRISON AND SHE COULDN'T EVEN HANG OUT THERE AND
25 THIS AND THAT. AND I CAN UNDERSTAND IT. BUT SOME OTHER
26 PEOPLE DON'T EVEN UNDERSTAND IT. BUT I'M NOT SAYING TO GIVE
27 ME A CHANCE FOR THAT. THAT'S ALL SORT OF COLD. I GOT
28 INSIDE THAT. I DON'T EVEN NEED OTHER PEOPLE'S SYMPATHY.

1 IT'S ME. I'M RESPONSIBLE FOR BEING DRUNK THAT DAY. AND I
2 CAN'T EVEN CONTROL MY ANGER WITH MY WIFE THAT DAY AND I
3 STARTED TO DRINK. AND I -- I -- I FOULED UP, YOUR HONOR. I
4 CALL THOSE PEOPLE AND I WRITTEN THEM A LETTER AND I ASKED
5 THEM TO BE IN COURT, YOU KNOW. IT'S EMBARRASSING FOR ME TO
6 ASK PEOPLE TO COME HERE BECAUSE OF WHAT I DID. BUT I THANK
7 THEM. I THANK THE COURT. AT LEAST YOU LET ME SPEAK. I'M
8 TRYING TO SEE -- I LOOKED IN SOME PAMPHLETS TO OHIO
9 UNIVERSITY AND SOME COLLEGES. I SEE THINGS THAT I COULD
10 HAVE DONE ALL OF THESE THINGS. BUT I'M NOT GOING TO GIVE
11 UP, YOUR HONOR. I'M GOING TO CONTINUE TO TRY TO GET MY
12 EDUCATION AND SOMEDAY WEAR A TIE. WHETHER IT'S IN MEXICO
13 WHERE I WOULD LIKE TO GO BACK TO WHEN I GET OUT YOU KNOW.
14 THAT IS WHERE I CAME FROM. THAT'S IT.

15 MR. GROCH IS RIGHT; APPARENTLY I CAN'T MAKE IT
16 OVER HERE AND THAT'S, THAT'S -- I DON'T THINK ANYBODY CAN
17 ARGUE; WELL, YOU'RE JUST LYING TO GET OUT OF THIS. TO GET
18 OUT. BUT YOU KNOW, WHEN I MOVED TO BAKERSFIELD IT'S A LOT
19 OF COUNTRY OUT THERE. AND I ENJOYED IT A LOT. MY WIFE
20 WANTED TO MOVE BACK. MY MOTHER ALSO WAS HERE. BUT I USED
21 TO TELL HER LET'S MOVE TO TIJUANA OR BACK TO WHERE I LIVED.
22 SHE DID SAY "I LIKE THE FAST LIFE."

23 NOW, I SEE THAT I DID -- A LOT OF TIMES I DID
24 THINGS FOR OTHER PEOPLE. AND I SHOULDN'T HAVE. YES, THE
25 CRIMES IN '89 HAPPENED, BUT THAT WAS NOT ME THAT STARTED
26 EVERYTHING. THAT WAS A FRIEND OF MINE. BECAUSE I KEPT MY
27 MOUTH SHUT. I WAS FOUND GUILTY.

28 THEN THE INCIDENT THAT HAPPENED IN '93 I WAS

1 PULLED OUT OF A HOUSE TO GO FIGHT WITH WHOEVER AND MY NEPHEW
2 WAS THERE. HE WAS TELLING MY FRIENDS, HEY, MAN, MY UNCLE IS
3 DRUNK. LEAVE HIM ALONE. I WENT LIKE A STUPID.

4 IN 1993, YOU KNOW, I DID WHAT I DID, YOUR
5 HONOR. AND, YOU KNOW, I'M CERTAINLY NOT PROUD OF IT. I
6 FEEL MYSELF HOT, BUT THEN I START TO COOL DOWN BECAUSE I
7 KNOW THAT I'M TELLING THE TRUTH. I HAVE NOTHING TO BE
8 NERVOUS ABOUT OR SCARED ABOUT.

9 BUT I HAVE REALLY TRIED TO CHANGE MY LIFE,
10 YOUR HONOR. AND THERE IS A LOT OF INCIDENTS WHERE I COULD
11 HAVE COMMITTED CRIMES THAT I DIDN'T EVEN WANT TO, BECAUSE I
12 KNOW THE CONSEQUENCES OF A CRIME.

13 THE COURT: THANK YOU, MR. SALCEDA.

14 MR. MANGARIN, ANYTHING YOU WANT TO ADD IN
15 CLOSING?

16 MR. MANGARIN: NO, YOUR HONOR. JUST ASK THE
17 COURT TO BE MINDFUL -- ALTHOUGH THE FIRST CASE HAS TWO
18 STRIKES COMING OUT OF THE SAME DAY WHICH WERE SERIOUS, I
19 WOULD ASK THE COURT TO BE MINDFUL OF THE FACT THAT HE WAS 18
20 YEARS OLD AT THE TIME OF THAT OFFENSE. AND WITH THAT, I
21 WOULD SUBMIT, YOUR HONOR.

22 THE COURT: WAIVE FORMAL ARRAIGNMENT FOR
23 JUDGEMENT AND SENTENCING?

24 MR. MANGARIN: YES.

25 THE COURT: ANY LEGAL REASON WHY SENTENCE
26 SHOULD NOT BE IMPOSED?

27 MR. MANGARIN: NO, YOUR HONOR.

28 THE COURT: ALL RIGHT. THIS IS A DIFFICULT

1 CASE, AS EVERYONE HAS WRITTEN IN THEIR STATEMENTS. THERE IS
2 A OVERRIDING SEVERE ALCOHOL PROBLEM THAT DOESN'T GIVE
3 MR. SALCEDA ANY TYPE OF EXCUSE. WHAT I'M GOING TO DO IN
4 THIS CASE IS I'M GOING TO STRIKE TWO OF THE PRIORS. I'M
5 GOING TO STRIKE THE SECOND AND THIRD PRIOR FOR THE FOLLOWING
6 REASONS: WITH RESPECT TO THE SECOND PRIOR, THAT OCCURRED AT
7 THE SAME TIME THE FIRST PRIOR OCCURRED. THAT WAS ON THE
8 SAME DATE IS WHAT I'M REFERRING TO. AND IN VIEW OF THE AGE
9 OF THE DEFENDANT AND AGE OF THOSE PRIORS, THE COURT FINDS
10 IT'S MORE APPROPRIATE TO TREAT THAT AS ONE STRIKE. SO I'M
11 STRIKING THE SECOND STRIKE.

12 WITH RESPECT TO THE THIRD PRIOR, THAT'S THE
13 1993 PRIOR, I HAVE REVIEWED THE FACTS. I'VE LOOKED AT THE
14 SENTENCE AND IT APPEARS THAT THE DEFENDANT DID BECOME
15 ENGAGED IN A CONFRONTATION WITH THE VICTIM. DID SWING A
16 BRICK AT HIM. I'M GOING TO STRIKE THAT STRIKE. I DON'T
17 FEEL THAT THE FACTS GIVING RISE TO THAT OFFENSE IS ENOUGH
18 THAT AS A SECOND OR THIRD STRIKE IS SUFFICIENT TO JUSTIFY A
19 SECOND OR THIRD STRIKE. THAT LEAVES ME WITH ONE STRIKE.

20 NEXT I NEED TO SELECT THE APPROPRIATE TERM.
21 THIS IS A SERIOUS CHARGE; IT'S KIDNAP. AN APPROPRIATE TERM
22 IS THE UPPER OR AGGREGATE TERM FOR THE FOLLOWING REASONS:
23 THE DEFENDANT WAS ON PROBATION WHEN IT OCCURRED. THE
24 DEFENDANT HAS A SERIOUS AND LENGTHY CRIMINAL PAST. AND FOR
25 THOSE REASONS I FEEL THAT THE UPPER TERM IS THE APPROPRIATE
26 TERM. THE UPPER TERM IS EIGHT YEARS. IT MUST BE DOUBLED.
27 THAT MAKES IT 16 YEARS.

28 THERE ALSO IS A SERIOUS FELONY PRIOR FOR HIS

1 PREVIOUS STRIKE -- THE COURT HAS PREVIOUSLY STRICKEN THE
2 ONE-YEAR PRISON PRIOR AND THAT WILL REMAIN STRICKEN.

3 THE TWO SERIOUS FELONY PRIORS THIS COURT FEELS
4 APPROPRIATELY THEY ADD FIVE YEARS EACH. THAT MEANS THE
5 AGGREGATE OR FINAL SENTENCE IS 26 YEARS. SO ACCORDINGLY,
6 THE DEFENDANT IS NOT ELIGIBLE FOR PROBATION. PROBATION IS
7 DENIED. THE DEFENDANT IS SENTENCED TO THE DEPARTMENT OF
8 CORRECTIONS FOR THE DETERMINATE SENTENCE OF 26 YEARS. HE'LL
9 RECEIVE CREDIT FOR THE TIME THAT HE PUT IN.

10 I THINK I'M SUPPOSED TO -- I'M IMPOSING A
11 RESTITUTION FINE PURSUANT TO 1202.4 OF THE PENAL CODE IN THE
12 AMOUNT OF \$500. LAST TIME THAT -- THAT WILL REMAIN AS PART
13 OF THE SENTENCE TO BE PAID FORTHWITH OR AS PROVIDED IN PENAL
14 CODE SECTION 2085.5.

15 ON PART OF THE ORIGINAL SENTENCE THERE WAS A
16 SENTENCING ON A MISDEMEANOR OF 180 DAYS. HE'S DONE THAT SO
17 THAT WILL BE SATISFIED. THAT WAS CONCURRENT. THERE WAS
18 ALSO A REVOCATION IN A PREVIOUS CASE TO RUN CONCURRENT.
19 THAT WILL REMAIN THE SAME.

20 SO, MR. SALCEDA --

21 THE DEFENDANT: YES.

22 THE COURT: -- I'VE REDUCED IT SOME. DOESN'T
23 -- YOU'LL STILL SERVE 80 PERCENT. BUT I HAVE REDUCED IT
24 DOWN TO 26 YEARS. SO THAT YOU WILL SERVE 80 PERCENT OF THAT
25 INSTEAD OF 85 PERCENT OF 35 TO LIFE.

26 GOOD LUCK. AND I HOPE YOU CONTINUE WITH THE
27 PROGRAMS THAT YOU HAVE STARTED ON WHILE YOU'RE IN STATE
28 PRISON. THAT WILL BE THE SENTENCE OF THE COURT.

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MR. GROCH: THANK YOU, YOUR HONOR.

MR. MANGARIN: THANK YOU, YOUR HONOR.

(WHEREUPON COURT PROCEEDINGS CONCLUDED.)



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

DATE October 2, 1989MINUTES DEPT. 34

PRESENT: HON.

WILLIAM D. MUDD,

JUDGE

CLERK K. BircumshawREPORTER D. MoodyBAILIFF W. BeckerCR 105783 PEOPLE OF THE STATE
B 6262101 OF CALIFORNIA,

By: DDA Luis M. Aragon,

v.

LEOVARDO SALCEDA,

By: Bill Youmans,

Defendant.

11:34 a.m. This being the time set for jury trial in the above-entitled cause, comes now the prospective jury panel, both counsel and the defendant having been excused until 3:00 p.m. today. The Court explains the delay in proceeding at this time and directs the panel to return to Department 34 of the Superior Court at 3:00 p.m. today.

11:37 a.m. The prospective jurors are excused and the Court is in recess.

3:19 p.m. Counsel as noted above, the defendant and the prospective jurors are present. Out of the presence of the Court, the clerk calls the roll.

3:21 p.m. The Court is now present and makes preliminary remarks to the jury.

3:24 p.m. The prospective jurors are sworn as to their qualifications. The Court reads the Information aloud and introduces both counsel and the defendant. The Court reads the People's prospective witness list aloud.

3:34 p.m. Fourteen prospective jurors are seated in the jury box. The Court explains the jury question chart.

3:43 p.m. Voir dire begins.

4:32 p.m. The prospective jurors are admonished and excused to return at 9:30 a.m. on Tuesday, October 3, 1989, in Department 34. Out of the presence of the prospective jurors, counsel are advised to return to Department 34 at 9:00 a.m. on October 3, 1989.

4:35 p.m. The Court is adjourned. The defendant remains in custody with bail set at \$30,000.

-krb-

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

DATE October 3, 1989MINUTES DEPT. 34

PRESENT: HON.

WILLIAM D. MUDD,

JUDGE

CLERK P. SIRNAREPORTER D. MOODYBAILIFF W. BECKERCR 105783 PEOPLE OF THE STATE OF
DA B6262101 CALIFORNIA,

By: DDA Luis M. Aragon,

v.

LEOVARDO SALCEDA,

By: William Youmans,

Defendant.

9:40am This being the time previously set for further jury trial in the above entitled matter, present are parties as noted above and defendant. Outside the presence of the jury, the defendant personally waives jury and signs waiver form. The Attorney for the People dismiss Counts 3 and 5 and the case is submitted on the Preliminary Hearing transcript.

9:50am Court is in recess until 9:54am when the jury is brought into court and the court explains that the defendant has waived jury and they are discharged on this case to return to the jury lounge.

10:00 am court is in recess for the Judge to review Preliminary Hearing transcript.

10:30am Court convenes with all parties and defendant present. The People submit on transcript. The Defense submits.

The Court finds the defendant GUILTY of Counts 1,2, and 4 and finds PC12022(a) allegations on Counts 1 and 2 to be true. Court finds PC12022.5(a) allegation on Count 4 to be true.

Defendant personally waives time for sentencing.

Case set for NOV. 2, 1989 @ 9:00am for probation hearing and sentencing.

Defendant remains in custody with bail as set at \$30,000.

pms

Robert D. ...
 OCT 03 1989
 DEPUTY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

No. CR-

CR 105783

JURY WAIVER

LEO Salceda

Defendant(s).

Comes now

LEO Salceda

defendant in the above-entitled criminal action, and, in support of his waiver of his right to a trial by jury to be made in open court personally and by his attorney, does declare:

1. That his attorney in the above-entitled criminal action is Bill Youmans
2. That he (does/does not) desire to waive and give up his right to a trial by jury and that he (does/does not) desire to have this court sitting without a jury determine whether he is guilty or not guilty of the offense(s) for which he is charged in the above-entitled criminal action;
3. That he (does/does not) understand that he is entitled to a trial by jury, that is, he (does/does not) understand that he is entitled to have twelve citizens of this community impaneled and sworn to try his case and to determine by their verdict whether he is guilty or not guilty of the offense(s) or crime(s) for which he is charged in the above-entitled action;
4. That his attorney (has/has not) fully explained to him the term "jury trial";
5. That his attorney (has/has not) fully explained to him the term "court trial";
6. That his attorney (has/has not) fully explained to him the difference between a "jury trial" and a "court trial"; and
7. That he (does/does not) personally waive his right to a "jury trial".

Executed this

3rd

day of

OCTOBER

19

89

in the County of San Diego, State of California.

LEO Salceda
 (Defendant's signature)

15

ABSTRACT OF JUDGMENT - COMMITMENT

FORM DSL 29C

S. OR COURT OF CALIFORNIA, COUNTY OF SANDIEGO
 COURT I.D. 3171 BRANCH

PEOPLE OF THE STATE OF CALIFORNIA
 DEFENDANT: LEOVARDO SALCEDA

VERSUS ☒ PRESENT
☐ NOT PRESENT

CASE NUMBER(S)

CR105783 - A
 - B
 - C
 - D
 - E

NOV 02 1989
 BY PELLO CLERK

COMMITMENT TO STATE PRISON
 ABSTRACT OF JUDGMENT

☐ AMENDED
☐ ABSTRACT

DATE OF HEARING (MO) (DAY) (YR)

DEPT. NO.

JUDGE

CLERK

11 02 89

34

WILLIAM D. MUDD

P. SIRNA

REPORTER

COUNSEL FOR PEOPLE

COUNSEL FOR DEFENDANT

PROBATION NO. OR PROBATION OFFICER

C. FRANKLIN

L. ARAGON

B. YOUMANS

A. STALCUP

1. DEFENDANT WAS CONVICTED OF THE COMMISSION OF THE FOLLOWING FELONIES:

A. ☐ ADDITIONAL COUNTS ARE LISTED ON ATTACHMENT

COUNT	CODE	SECTION NUMBER	CRIME	YEAR CRIME COMMITTED	DATE OF CONVICTION	CONVICTION BY	TERM (L.M.U.)	CONCURRENT	CONSECUTIVE	1/3 VIOLENT	1/3 NON-VIOLENT	CONSECUTIVE FULL TERM	INCOMPLETE SENTENCES	654 STAY	PRINCIPAL OF CONSECUTIVE TIME IMPOSED
				MO	DAY	YEAR	JURY TRIAL	COURT TRIAL	PLEA						YEARS MONTHS
4	PC	211**	ROBBERY	89	10	02	89	X	L	PRINCIPAL					2
1	PC	211**	ROBBERY	89	10	02	89	X	M	X					(3)
2	VC	10851(a)	UNLAW TAKING OF VEH	89	10	02	89	X	M	X					(2)

2. ENHANCEMENTS (CHARGED AND FOUND, STRICKEN, TIME IMPOSED):

2. ENHANCEMENTS (CHARGED AND FOUND, STRICKEN, TIME IMPOSED):																														
COUNT	12022(a)			12022(b)			12022.3(a)			12022.3(b)			12022.5			12022.6(a)			12022.6(b)			12022.7			12022.8					
	C/F	S	I	C/F	S	I	C/F	S	I	C/F	S	I	C/F	S	I	C/F	S	I	C/F	S	I	C/F	S	I	C/F	S	I	C/F	S	I
													X		X															
	X		X																											
2	X		X																											

2	
(1)	
(1)	

3. INCOMPLETED SENTENCE(S) CONSECUTIVE:

COUNTY	CASE NUMBER	CREDIT FOR TIME SERVED

5. A. NUMBER OF PRIOR PRISON TERMS:

S	C/F	S	I
667.5(a)	0		
667.5(b)	0		
667.6(b)	0		

B. NUMBER OF PRIOR FELONY CONVICTIONS:

S	C/F	S	I
667.6(a)	0		

4. OTHER ORDERS:

RESTITUTION FINE IN THE AMOUNT OF \$300 FORTHWITH OR PER PC2085.5.

6. TOTAL TIME IMPOSED ON ALL ATTACHMENT PAGES (FORM DSL 290-A):

7. TIME STAYED § 1170.1(a) [5-YEAR LIMIT] AND/OR § 1170.1(f) [DOUBLE BASE LIMIT]:

8. TOTAL TERM IMPOSED:

9. EXECUTION OF SENTENCE IMPOSED:

A. ☒ AT INITIAL SENTENCING HEARING B. ☐ AT RESENTENCING PURSUANT TO DECISION ON APPEAL C. ☐ AFTER REVOCATION OF PROBATION D. ☐ AT RESENTENCING PURSUANT TO RECALL OF COMMITMENT (PC § 1170(d))

10. DATE SENTENCE PRONOUNCED: MO DAY YEAR CREDIT FOR TIME SPENT IN CUSTODY: TOTAL DAYS INCLUDING: ACTUAL LOCAL TIME LOCAL CONDUCT CREDITS STATE INSTITUTIONS ☐ DMH ☐ CDC

11. DEFENDANT IS REMANDED TO THE CUSTODY OF THE SHERIFF, TO BE DELIVERED:

☒ FORTHWITH
☐ AFTER 48 HOURS, EXCLUDING SATURDAYS, SUNDAYS AND HOLIDAYS

INTO THE CUSTODY OF THE DIRECTOR OF CORRECTIONS AT THE RECEPTION-GUIDANCE CENTER LOCATED AT:

☐ CALIF. INSTITUTION FOR WOMEN - FRONTERA

☐ CALIF. MEDICAL FACILITY - VACAVILLE

☐ CALIF. INSTITUTION FOR MEN - CHINO

☒ OTHER (SPECIFY): RICHARD J. DONOVAN CORRECTIONAL FACILITY
SAN DIEGO, CA

CLERK OF SUPERIOR COURT

I hereby certify the foregoing to be a correct abstract of the judgment made in this action.

D. SIGNATURE
PEGGY SIRNA

DATE
NOV. 2, 1989

Court file 12

This form is prescribed pursuant to Penal Code § 1213.5 to satisfy the requirements of Penal Code § 1213 (Abstract of Judgment and Commitment) for determining sentences under Penal Code § 1170. A copy of probation report shall accompany the Department of Corrections' copy of this form pursuant to Penal Code § 120. A copy of the sentencing proceedings and any supplementary probation report shall be transmitted to the Department of Corrections pursuant to Penal Code § 1203.01. Attachments may be used but must be incorporated by reference.

Form Adopted by the
 Judicial Council of California
 Effective July 1, 1981

ABSTRACT OF JUDGMENT - COMMITMENT

FORM DSL 290

29 Pen.C. 1213

DISTRIBUTION:

PINK COPY - COURT FILE,

YELLOW COPY - DEPARTMENT OF CORRECTIONS,

WHITE COPY - ADMINISTRATIVE OFFICE OF THE COURT



DEPT. NO. M-1

SUPERIOR COURT OF CALIFORNIA

CLERK K. Holland

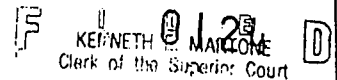
COUNTY OF SAN DIEGO

EXHIBIT LIST

CASE NO. SCD 112436CASE NAME PEO vs LEONARDO SALCEDACOUNSEL MICHAEL GROCH - DDA DAN MANGARIN - A. PD

Name(s) and address(es)

COURT USE ONLY


 KENNETH J. MARICONE
 Clerk of the Superior Court

OCT 13 1995

W.E. NICKS, Deputy

NO. TTA	ID Date	EVID Date	EXHIBIT DESCRIPTION	NO. TTA	ID Date	EVID Date	EXHIBIT DESCRIPTION
1 TT	9-25-95	9-26-95	Backboard w/ two photos of victim's car	1 CT	10-4-95	10-4-95	Sheriff's Booking Record dated 4-23-95
2 TT	9-25-95	9-26-95	Back w/ two photos of victim's car	2 CT	10-4-95	10-4-95	Sheriff's Booking Record dated 7-3-89
3 TT	9-25-95	9-26-95	Backboard w/ color photo of Railroad crossing	3 CT	10-4-95	10-4-95	CERT. copy of CASE CR105783
4 TT	9-25-95	9-26-95	Backboard w/ two color photos of victim	4 CT	10-4-95	10-4-95	Sheriff's Booking Record dated 6-30-93
5 TT	9-25-95	9-26-95	Backboard w/ two photos of interior of victim's car	5 CT	10-4-95	10-4-95	CERT. copy of CASE CR140382
6 TT	9-25-95	9-26-95	Backboard w/ two photos of victim's DRIVEWAY	6 CT	10-4-95	10-4-95	CERT. copy of defendant's PRISON RECORDS
7 TT	9-25-95	9-26-95	MAP of ENCanto AREA 62ND ST. to 66th ST.				
8 TT	9-25-95	9-26-95	Backboard w/ one photo of retaining wall along SCIMITAR AVE.				
A Δ	9-25-95	9-26-95	Color photo of victim's DRIVEWAY				

DISTRIBUTION

 White - Court File
 Canary - Court Clerk
 Pink - Exhibit Envelope

 ID - Marked for Identification
 EVID - Entered in Evidence
 TT - Plaintiff/Petitioner Offered
 Δ - Defendant/Respondent Offered
 ○ - Not Received by Exhibit Clerk

Date:

10/13/95

PAGE NO. 171

Exhibits Custodian

75

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

Robert D. Luzzo, Jr. 0125

AUG 01 1989
ele

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

v.

SC No. CR105783
DA No. B 062621

INFORMATION

LEOVARDO SALCEDA,
aka LEO SALCEDA

Defendant(s)

8-3-89

I N F O R M A T I O N
S U M M A R Y

Ct. No.	Charge	Sentence Range	Defendant	Special Allegation	Alleg. Effect
1	PC211	2-3-5	SALCEDA, LEOVARDO	PC12022(a)	+1
2	VC10851(a)	16-2-3	SALCEDA, LEOVARDO	PC12022(a)	+1
3	PC496.1	16-2-3	SALCEDA, LEOVARDO	PC12022(a)	+1
4	PC211	2-3-5	SALCEDA, LEOVARDO	PC12022.5	+2
5	PC246.3	16-2-3	SALCEDA, LEOVARDO		

The District Attorney of the County of San Diego, State of California, accuses the Defendant(s) of committing, in the County of San Diego, State of California, the following crime(s):

COUNT - 1 ROBBERY

On or about June 30, 1989 LEOVARDO SALCEDA did willfully, unlawfully, and by means of force and fear take personal property from the person, possession, and immediate presence of RAFAEL SALDIBAR HARO, in violation of PENAL CODE SECTION 211.

And, it is further alleged that at the time of the commission and attempted commission of the above offense the said defendant, LEOVARDO SALCEDA, was armed with a firearm, to wit, a handgun, within the meaning of Penal Code section 12022(a).

Court's Ex. 3
Case # SC 2436
Rec'd 10-75
Dept. M-1 CE

0126

COUNT - 2 UNLAWFUL DRIVING OR TAKING OF A VEHICLE

On or about June 30, 1989 LEOVARDO SALCEDA did willfully and unlawfully drive and take a vehicle, the personal property of another, without the consent of and with intent to deprive the owner of title to and possession of said vehicle, in violation of VEHICLE CODE SECTION 10851(a).

And, it is further alleged that at the time of the commission and attempted commission of the above offense the said defendant, LEOVARDO SALCEDA, was armed with a firearm, to wit, a handgun, within the meaning of Penal Code section 12022(a).

COUNT - 3 RECEIVING STOLEN PROPERTY

On or about June 30, 1989 LEOVARDO SALCEDA did willfully and unlawfully buy, receive, conceal, sell, withhold, and aid in concealing, selling, and withholding property which had been stolen and obtained by extortion, knowing that said property had been stolen and obtained by extortion, in violation of PENAL CODE SECTION 496.1. *DLH*

And, it is further alleged that at the time of the commission and attempted commission of the above offense the said defendant, LEOVARDO SALCEDA, was armed with a firearm, to wit, a handgun, within the meaning of Penal Code section 12022(a).

COUNT - 4 ROBBERY

On or about June 30, 1989 LEOVARDO SALCEDA did willfully, unlawfully, and by means of force and fear take personal property from the person, possession, and immediate presence of RAMON CESPEDES, in violation of PENAL CODE SECTION 211.

And, it is further alleged that in the commission and attempted commission of the above offense, the said defendant(s), LEOVARDO SALCEDA, personally used a firearm(s), to wit: a handgun, within the meaning of Penal Code section 12022.5(a).

COUNT - 5 DISCHARGE FIREARM IN GROSSLY NEGLIGENT MANNER

On or about June 30, 1989 LEOVARDO SALCEDA did unlawfully discharge a firearm in a grossly negligent manner which could have resulted in injury or death to a person, in violation of PENAL CODE SECTION 246.3. *DLH*

0127

THIS INFORMATION NUMBERED CR105783 , CONSISTS OF 5 COUNT(S).

EDWIN L. MILLER, JR.
DISTRICT ATTORNEY
County of San Diego,
State of California

Dated 07/28/1989

By: 

F
Robert D. Zurbrugg, Clerk
OCT 03 1989
DEPUTY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

No. CR-

CR 105783

JURY WAIVER

LEO Salceda

Defendant(s).

Comes now

LEO Salceda

defendant in the above-entitled criminal action, and, in support of his waiver of his right to a trial by jury to be made in open court personally and by his attorney, does declare:

1. That his attorney in the above-entitled criminal action is

Bill Youmans

2. That he (does/does not) desire to waive and give up his right to a trial by jury and that he (does/does not) desire to have this court sitting without a jury determine whether he is guilty or not guilty of the offense(s) for which he is charged in the above-entitled criminal action;

3. That he (does/does not) understand that he is entitled to a trial by jury, that is, he (does/does not) understand that he is entitled to have twelve citizens of this community impaneled and sworn to try his case and to determine by their verdict whether he is guilty or not guilty of the offense(s) or crime(s) for which he is charged in the above-entitled action:

4. That his attorney (has/has not) fully explained to him the term "jury trial";

5. That his attorney (has/has not) fully explained to him the term "court trial";

6. That his attorney (has/has not) fully explained to him the difference between a "jury trial" and a "court trial"; and

7. That he (does/does not) personally waive his right to a "jury trial".

Executed this 3rd day of October, 1989, in the County of San Diego, State of California.

Leonardo Salceda
(Defendant's signature) 719

SDS

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO 0129

CR 105783 DA B6262101

DATE 11-02-89 09:00 AT 89153443 M

PROB HEAR-SENTENCING

PRESENT: HON. WILLIAM D MUDD

JUDGE PRESIDING DEPARTMENT 034

CLERK *[Signature]* REPORTER *[Signature]*THE PEOPLE OF THE STATE OF CALIFORNIA
VS

DEPUTY DISTRICT ATTORNEY

SALCEDA LEONARDO

DEFENDANT

B. YOUNG *[Signature]*
ATTORNEY FOR DEFENDANT (APPT'D/RETAINED)

VIOLATION OF *PC211 Ct. 1 *VC10851(A) Ct. 2 *PC211 Ct. 4

DEFENDANT ☒ NOT PRESENT ☐ ARRAIGNED FOR JUDGMENT ☒ WAIVES ARRAIGNMENT
☐ DEFENDANT ADVISED OF RIGHTS AND (ADMITS/DENIES) A VIOLATION OF PROBATION. ☐ WAIVES HEARING
 PROBATION IS: ☒ DENIED ☐ REVOKED ☐ REINSTATED ☐ CONTINUED ☐ MODIFIED ☐ GRANTED _____ YEARS (FORMAL/SUMMARY)

☐ IMPOSITION OF SENTENCE IS SUSPENDED. ☐ DEFENDANT SENTENCED TO STATE PRISON, EXECUTION STAYED (SEE BELOW FOR TERM).

CONDITIONS OF PROBATION INCLUDE, BUT ARE NOT LIMITED TO:

☐ COMMITMENT TO SHERIFF FOR _____ DAYS. ☐ ADULT INSTITUTIONS RECOMMENDED. ☐ PAROLE NOT TO BE GRANTED.
☐ FINE OF \$ _____ INCLUDING PENALTY ASSESSMENT AT \$ _____ PER MONTH, COMMENCING _____ THROUGH REVENUE AND RECOVERY
☐ RESTITUTION OF \$ _____ TO VICTIM/RESTITUTION FUND AT \$ _____ PER MONTH, COMMENCING _____ THROUGH REVENUE AND RECOVERY
☒ RESTITUTION/FINE OF \$ 300- PER GC 13967, STAYED PER PC 1202.4(b). *YOUTH WITH NO PRIOR 2085.5*
☐ PARTICIPATION IN COMMUNITY SERVICES PROGRAM IN LIEU OF RESTITUTION.
☐ FOURTH AMENDMENT WAIVER OF PERSON/AUTO/RESIDENCE/PERSONAL EFFECTS.
☐ REGISTRATION PER PC 290/H&S 11590.

COMMITMENT
☒ DEFENDANT IS COMMITTED TO DEPARTMENT OF CORRECTIONS FOR (LOWER/MIDDLE/UPPER TERM OF 2 YEARS. *PRINCIPAL* COUNT 4
 (SEE BELOW FOR ADDITIONAL COUNTS)
☐ DEFENDANT IS COMMITTED TO CALIFORNIA YOUTH AUTHORITY. ☐ PER W&I 707.2 ☐ PER W&I 1737
 (SEE BELOW FOR FINDINGS)
☒ DEFENDANT IS ADVISED OF APPEAL RIGHTS ☒ DEFENDANT IS ADVISED REGARDING PAROLE

CREDIT FOR TIME SERV
 22 DAYS LOCAL
 _____ DAYS STATE INST.
 61 DAYS PC 4019
 183 TOTAL DAYS CREDIT

CUSTODY
DEFENDANT REMAINS AT LIBERTY:

☐ ON BOND POSTED \$ _____
☐ ON OWN RECOGNIZANCE
☐ ON PROBATION

DEFENDANT REMANDED TO CUSTODY:

☒ WITHOUT BAIL☐ WITH BAIL SET AT \$ _____☐ DEFENDANT ORDERED RELEASED FROM CUSTODY

FURTHER
☐ DEFENDANT WAIVES STATUTORY TIME FOR PRONOUNCEMENT OF JUDGMENT
 _____ CONTINUED TO/SET FOR _____ AT _____ M IN DEPT. _____ ON MOTION

COURT/DDA/DEFENDANT/PROBATION OFFICER. REASON:

☐ DEFENDANT REFERRED FOR DIAGNOSTIC EVALUATION PER PC 1203.03. FURTHER HEARING SET FOR _____ AT _____ M IN DEPT. _____

BOND
☐ BENCH WARRANT TO ISSUE, BAIL SET AT \$ _____ . SERVICE WITHHELD TO _____ .
☐ BENCH WARRANT, ISSUED _____ IS RECALLED.
☐ BOND FORFEITED. BOND AMOUNT _____ . BOND NO. _____ . BOND COMPANY _____ . AGENT _____
☐ BOND IS EXONERATED.

M
☐ PROCEEDINGS SUSPENDED PER: ☐ PC 1368, MENTAL COMPETENCY. (SEE BELOW FOR DATES OF EXAMINATION AND HEARING.).
☐ W&I 3051 ADDICTION OR DANGER OF ADDICTION. (SEE BELOW FOR DATE OF SERVICE OF PETITION AND ORDER)

OTHER: ☐ REFERRED TO DEPT. OF REVENUE AND RECOVERY ☒ REPORT TO REGISTRAR OF VOTERS ☒ DMV ABSTRACT

As to pc 12022.5(a) allegation on Ct. 4 - Defendant committed for 2 years, consecutive to Ct. 4. As to Ct. 1 - Defendant sentenced to mid-term 3 years concurrent. As to pc 12022(a) allegation committed for one year concurrent. As to Ct. 2 - Defendant committed to 2 year concurrent with Ct. 4 - As to pc 12022(a) allegation - committed to 1 year concurrent. TOTAL TERM 4468.

ABSTRACT OF JUDGMENT - COMMITMENT

0130
FORM DSL 290SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANDIEGO

COURT I.D.

BRANCH

317

PEOPLE OF THE STATE OF CALIFORNIA

VERSUS

☒ PRESENT

CASE NUMBER(S)

DEFENDANT: LEOVARDO SALCEDA

AKA:

☐ NOT PRESENT

CR105783

- A

- B

- C

- D

- E

COMMITMENT TO STATE PRISON

ABSTRACT OF JUDGMENT

☐ AMENDED
ABSTRACTDATE OF HEARING
(MO) (DAY) (YR)

DEPT. NO.

JUDGE

CLERK

11 02 89

34

WILLIAM D. MUDD

P. SIRNA

REPORTER

COUNSEL FOR PEOPLE

COUNSEL FOR DEFENDANT

PROBATION NO. OR PROBATION OFFICER

C. FRANKLIN

L. ARAGON

B. YOUNG

A. STALCUP

1. DEFENDANT WAS CONVICTED OF THE COMMISSION OF THE FOLLOWING FELONIES:

A. ☐ ADDITIONAL COUNTS ARE LISTED ON
ATTACHMENT

COUNT	CODE	SECTION NUMBER	CRIME	YEAR CRIME COMMITTED	DATE OF CONVICTION			CONVICTION BY	TERM (L.M.U.)	SENTENCE RELATION								PRINCIPAL OR CONSECUTIVE	TIME IMPOSED
					MO	DAY	YEAR												
4	PC	211**	ROBBERY	89	10	02	89	X	L	PRINCIPAL								2	
1	PC	211**	ROBBERY	89	10	02	89	X	M	X								(3)	
2	VC	10851(a)	UNLAW TAKING OF VEH	89	10	02	89	X	M	X								(2)	

2. ENHANCEMENTS (CHARGED AND FOUND, STRICKEN, TIME IMPOSED):

COUNT	12022.(a)			12022.(b)			12022.3(a)			12022.3(b)			12022.5			12022.6(a)			12022.6(b)			12022.7			12022.8					
	C/P	S	I	C/P	S	I	C/P	S	I	C/P	S	I	C/P	S	I	C/P	S	I	C/P	S	I	C/P	S	I	C/P	S	I	C/P	S	I
4													X		X															
1	X		X																											
2	X		X																											

2	
(1)	
(1)	

3. INCOMPLETED SENTENCE(S) CONSECUTIVE:

COUNTY	CASE NUMBER	CREDIT FOR TIME SERVED

CREDIT
FOR TIME
SERVED

5. A. NUMBER OF PRIOR PRISON TERMS:

S	C/F	S	I
667.5(a)	0		
667.5(b)	0		
667.6(b)	0		

B. NUMBER OF PRIOR FELONY CONVICTIONS:

S	C/F	S	I
667.6(a)	0		

4. OTHER ORDERS:

RESTITUTION FINE IN THE AMOUNT OF
\$300 FORTHWITH OR PER PC2085.5.

6. TOTAL TIME IMPOSED ON ALL ATTACHMENT PAGES (FORM DSL 290-A):

7. TIME STAYED § 1170.1(b) [5-YEAR LIMIT] AND/OR § 1170.1(f) [DOUBLE BASE LIMIT]:

8. TOTAL TERM IMPOSED:

9. EXECUTION OF SENTENCE IMPOSED:

A. ☒ AT INITIAL SENTENCING HEARING B. ☐ AT RESENTENCING PURSUANT TO DECISION ON APPEAL C. ☐ AFTER REVOCATION OF PROBATION D. ☐ AT RESENTENCING PURSUANT TO RECALL OF COMMITMENT [PC§1170(d)]

10. DATE SENTENCE PRONOUNCED: MO DAY YEAR CREDIT FOR TIME SPENT IN CUSTODY: TOTAL DAYS INCLUDING: ACTUAL LOCAL TIME LOCAL CONDUCT CREDITS STATE INSTITUTIONS

11 02 89

183

122

61

☐ DMH☐ CDC

11. DEFENDANT IS REMAIND TO THE CUSTODY OF THE SHERIFF, TO BE DELIVERED:

☒ FORTHWITH☐ AFTER 48 HOURS, EXCLUDING SATURDAYS, SUNDAYS AND HOLIDAYS

INTO THE CUSTODY OF THE DIRECTOR OF CORRECTIONS AT THE RECEPTION-GUIDANCE CENTER LOCATED AT:

☐ CALIF. INSTITUTION FOR WOMEN - FRONTERA☐ CALIF. MEDICAL FACILITY - VACAVILLE☐ CALIF. INSTITUTION FOR MEN - CHINO☒ OTHER (SPECIFY): RICHARD J. DONOVAN CORRECTIONAL FACILITY
SAN DIEGO, CA

CLERK OF SUPERIOR COURT

I hereby certify the foregoing to be a correct abstract of the judgment made in this action.

DEPUTY'S SIGNATURE

PEGGY SIRNA

DATE

NOV. 2, 1989

This form is prescribed pursuant to Penal Code § 1213.5 to satisfy the requirements of Penal Code § 1213 (Abstract of Judgment and Commitment) for determinate sentences under Penal Code § 1170. A copy of probation report shall accompany the Department of Corrections' copy of this form pursuant to Penal Code § 1203. A copy of the sentencing proceedings and any supplementary probation report shall be transmitted to the Department of Corrections pursuant to Penal Code § 1203.01. Attachments may be used but must be incorporated by reference.

16
F KENNETH E. MARTONE
Clerk of the Superior Court
JUL 16 1993

MUNICIPAL COURT OF CALIFORNIA, COUNTY OF SAN DIEGO
SAN DIEGO JUDICIAL DISTRICT

People vs. Salceda, Leonardo Case No. F158003

PLEA OF GUILTY/NO CONTEST - FELONY

I 5

The defendant in the above-entitled action, in support of his motion to change his plea(s) in open Court, personally and by his attorney, does declare that his attorney in this case is T.W. Carnessale and does further declare as follows:

1. Of those charges now filed against me in this case, I wish to plead guilty to the following violations: (List Crimes and Code Sections)

CT. 1- P.C. 245(a)(1)

- 1a. (If Applicable) I also wish to admit the following enhancement(s)/prior conviction(s) with which I am charged: (List Court, Docket No. and Date of any Prior Conviction)

P.C. 1192.7(c) - Serious felony

2. I have not been induced to enter the above plea by any promise or representation of any kind, except: (Briefly state any plea bargain with the District Attorney.)

Dismiss balance; Low-Term Lid [2 yrs];
C.C. w/ violations

RIGHT TO A LAWYER

3. I understand that I have the right to be represented by a lawyer at all stages of the proceedings, including this one. I can hire my own lawyer, or the Court will appoint a lawyer for me if I cannot afford one.

CONSTITUTIONAL RIGHTS

I understand that I also have the following constitutional rights which I now give up to plead either Guilty or No Contest:

4. The right to be tried by a jury, in a speedy, public trial.
5. The right to confront and to cross-examine all the witnesses against me.
6. The right to remain silent (unless I choose to testify on my own behalf).
7. The right to present evidence and to have witnesses subpoenaed to testify in my behalf at no cost to me.

I understand this right. I give up this right.

☒ ☒
☒ ☒
☒ ☒
☒ ☒

CONSEQUENCES OF PLEA OF GUILTY OR NO CONTEST

- 8a. I understand that I may serve this maximum sentence as a result of my plea: 4 years in State Prison, \$10,000 fine plus restitution and/or a restitution fine and 48 months parole, with up to one year return to prison for every parole violation. If I should receive probation (for up to five years), I understand that I may be given up to a year in local custody, plus the fine plus restitution and/or a restitution fine, and any other conditions deemed reasonable by the Court. I understand that if I violate any terms or conditions of probation I can be sent to State Prison for the maximum term as stated above.

- 8b. My attorney has explained to me that other possible direct consequences of this plea may be: (Circle applicable consequences.)

- (a) Ineligibility for probation. (d) Loss of driving privileges.
(b) Prison sentence presumptive. (e) Commitment to the Youth Authority.
(c) Registration as an arsonist, sex or narcotics offender. Ⓢ Senior, (5 yr.) felony prior

9. I understand that if I am not a citizen of the United States a plea of Guilty or No Contest could result in deportation, exclusion from admission to this country, or denial of naturalization.

10. I understand that my plea of Guilty or No Contest in this case could result in revocation of my probation or parole in other cases.

725

CR140282
0135

11. I now plead guilty to the charge(s) described in #1 above and admit that on the date charged I: (Describe facts as to each charge in #1.)

assaulted another w/ a deadly weapon

- 11a. (If Applicable) I understand that as to any and all prior conviction(s)/enhancement(s) alleged against me in this case, I have all the constitutional rights listed in #3 - #7 above. As to any prior convictions alleged, I understand that if I request a jury trial on the current case, the jury would not learn of, or decide, the prior conviction(s) unless and until the jury found me guilty on the current charges. ☒
- 11b. (If Applicable) I hereby admit the prior conviction(s)/enhancement(s) listed in this form, and give up my constitutional rights, including the right to a separate jury determination on the issue of the prior conviction(s). ☒
12. I do understand that the matter of probation and sentence is to be determined solely by the Court. ☒
13. (Harvey Waiver) The sentencing judge may consider the entire factual background of the case, including any dismissed or stricken charges or allegations or cases, and any charges the District Attorney agrees not to file, when granting probation, ordering restitution or imposing sentence. ☒
14. I am entering my plea freely and voluntarily, without threat or fear to me or anyone closely related to me. ☒
- 15a. I am pleading Guilty because in truth and in fact I AM GUILTY. ☒
- 15b. I understand that a plea of No Contest is the same as a plea of Guilty in this criminal case and for all purposes has the same consequences as a plea of Guilty. ☒
16. I am now sober. I have not consumed any drug, alcohol or narcotic within the past 24 hours to the extent that my judgment is impaired. ☒
17. I declare under penalty of perjury, under the laws of the State of California, that I have read, understood, and initialed each item above, and everything on the form is true and correct. ☒

Dated: 7-14-93

Edward Salceda
Defendant's Signature

Defendant's Address

City State Zip

Defendant's Telephone Number

ATTORNEY'S STATEMENT

The undersigned states that (s)he is the attorney for defendant in the above-entitled action; that (s)he personally read and explained the contents of the above declaration to the defendant and each item thereof; that no meritorious defense exists to the charge(s) to which defendant is pleading Guilty/No Contest; that (s)he personally observed the defendant fill in and initial each item, or read and initial each item to acknowledge explanation of the contents of each item; that (s)he observed defendant date and sign said declaration; that (s)he concurs in defendant's above plea and in defendant's waiver of constitutional rights.

Dated: 7-14-93

Edward Salceda
Attorney for Defendant

INTERPRETER'S STATEMENT (If Applicable)

I, the interpreter in this proceeding, having been duly sworn, truly translated this form and all the questions therein to the defendant in the _____ language. The defendant indicated that (s)he understood the contents of the form and (s)he then initialed and signed the form.

Dated: _____

Court Interpreter

PROSECUTOR'S STATEMENT

The People of the State of California, plaintiff in the above-entitled criminal action, by and through its attorney, EDWIN L. MILLER, JR., District Attorney, concurs in the defendant's plea of Guilty/No Contest as set forth above.

Dated: 7/17/93

Edwin L. Miller, Jr.
Deputy District Attorney

COURT'S FINDINGS AND ORDER

The Court, having questioned the defendant concerning the defendant's constitutional rights, finds that defendant has voluntarily and intelligently waived his/her constitutional rights. The Court finds that defendant's pleas and admissions are freely and voluntarily made, that defendant understands the nature of the charges and the consequences of the plea, and that there is a factual basis for the plea. The Court accepts defendant's plea, and the defendant is hereby convicted on his plea.

Dated: 7-14-93

Jan P. Weber
Judge of the Municipal Court

726

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO <input type="checkbox"/> CENTRAL COURTHOUSE, 220 W. BROADWAY, SAN DIEGO, CA 92101-3409 <input type="checkbox"/> NORTH COUNTY BRANCH, 325 S. MELROSE, VISTA, CA 92083-6627 <input type="checkbox"/> EAST COUNTY COURT, 250 E. MAIN, EL CAJON, CA 92020-3913 <input type="checkbox"/> SOUTH BAY COURT, 500 THIRD, CHULA VISTA, CA 91910-5694		Court Use Only 0136 <div style="border: 1px solid black; padding: 5px; text-align: center;"> F KENNETH E. MARTONE D Clerk of the Superior Court </div> AUG 11 1993 By: _____ Deputy
PEOPLE OF THE STATE OF CALIFORNIA <i>Leonardo</i> <i>Salceda</i>	PLAINTIFF, vs DEFENDANT	
PROBATION # <u>700988</u>	CII # <u>08882859</u>	CR <u>140382</u> DA <u>P3182901</u> BK <u>93146999A</u>
ORDER GRANTING PROBATION (PC 1203)		

Defendant having been convicted of violating section(s) PC 245(a)(1) IT IS THEREFORE ORDERED that the ☒ imposition/☐ execution of the sentence be suspended for a period of 3 years, and defendant be granted probation ☒ under the supervision of the Probation Officer/☐ to the Court on the following conditions:

1. ☒ a. Be committed to the custody of the Sheriff for 365 day(s), with credit for 70 actual day(s) and 34 4019 P.C. credits, a total of 104 day(s) credit.
- ☒ b. Adult Institutions recommended. *C Barrett*
- ☐ c. Probation Work Furlough recommended; report on _____ at _____ am/pm to 551 So. 35th St., San Diego 92113.
- ☐ d. Women's Work Furlough/ESP recommended; report to Las Colinas on a date set by SDSO; call Jail Counselor at 258-3204 or 940-4846 for screening within 72 hours.
- ☐ e. Custody to be served consecutively/concurrently with _____.
2. ☐ Work in Probation Department Public Service Program for _____ days, ☐ at the direction of the Probation Officer, who will set the enrollment date within 60 days of issuance of the Court order/☐ call 560-3258 within 72 hours to enroll.
3. ☐ Participate in program of volunteer work (non-profit organization) for _____ hours, work to be completed by _____ (date), with proof to be submitted to the Probation Officer within 15 days of completion.
4. ☐ Pay a fine of \$ _____ including penalty assessments, and restitution of \$ _____, to be paid to the Probation Officer through Revenue and Recovery at a combined rate of \$ _____ per month; with interest of 10% per annum on principal amount of restitution unsatisfied, commencing _____; disbursement to victim per P.O.'s report.
5. ☒ Pay fine of \$ 800, including penalty assessments, and restitution to Restitution Fund of \$ 2000, to be paid to Probation Officer through Revenue and Recovery at a combined rate of \$ 25 per month, commencing 60 days after release.
6. ☒ Pay restitution fine per 3967 Gov. Code of \$ 1,000 said fine to be stayed per 1202.4(b) PC, with stay to become permanent on successful completion of probation.
7. ☐ Any restitution order shall become a judgment under PC1203(j) if unpaid at the end of probation.
8. ☐ Restitution to be determined by further court order if victim reports a loss.
9. Illegal Aliens
 - ☐ a. Not enter or be in U.S.A. unless properly documented evidencing your lawful presence.
 - ☐ b. Report to P.O. within 72 hours of release from custody if not deported.
 - ☐ c. The formal grant of probation to become probation to the Court on verification that defendant has been released to INS for processing.
10. ☒ Obey all laws, traffic infractions excepted.
11. ☒ Not depart from San Diego County without the Probation Officer's consent, nor move to another state without the consent in writing of the Superior Court; may travel/reside in _____.
12. ☒ Report to the Probation Officer in a manner and at such times as may be directed by that officer, and report any change of address or employment to the P.O. within 72 hours. Further, follow such course of conduct as the P.O. may prescribe.
13. ☒ Seek and maintain full-time employment, schooling or a full-time combination of the two.
14. ☒ Report to the Probation Officer within 72 hours of release from custody.
15. ☐ (Fine payable to law enforcement - on all PC 211, 459, 487, & 488): Pay a fine of \$10 including penalty assessments, per PC 1202.5 to Probation Officer through Revenue and Recovery for disbursement to _____ (law enforcement agency).
16. ☐ Not maintain a checking/charge account or be in possession of checks/credit cards other than those issued pursuant to employment.
17. ☐ Not possess any stolen property.
18. ☒ Not possess a firearm or deadly weapon.

727

Leovardo Saliedo

CASE NUMBER:

CR 1403820137**DRUG AND SEX CONDITIONS/REGISTRATION**

- 19a ☒ Participate in counseling or therapy if as directed by Probation Officer; continue until released by therapist and/or P.O.; authorize therapist to provide progress reports to P.O. when requested; all costs to be borne by defendant.
- 20a ☐ Pay a special fine of \$ _____, pursuant to PC 290.3 to P.O. through Revenue and Recovery at the rate of \$ _____ per month, commencing 30 days after release from custody/today's hearing date.
- 21a ☒ Not contact, annoy or molest Victim
or be within 100 feet of
Victim's residence.
- 22a ☐ Not associate with minors, nor frequent places where minors congregate, unless in the company of a responsible adult who knows the defendant is on probation for _____.
- 23a ☐ Obey all orders of Juvenile Court.
- 24a ☐ Do not use or possess any controlled substance without a valid prescription, and submit to testing for the use of controlled substances when required by the Probation Officer or any law enforcement officer.
- 25a ☒ Submit person, property, place of residence, vehicle, personal effects to search at any time with or without a warrant, and with or without reasonable cause, when required by the P.O. or other law enforcement officer.
- 26a ☐ Register per ☐ 11590 H&S; ☐ 290 PC; ☐ 457.1 PC.
- 27a ☒ Complete a program of residential treatment if as ☐ directed by Probation Officer.

AIDS TESTING, EDUCATION, FINE/FEE/DNA TESTING

- 28a ☐ Submit to AIDS testing by SDSO/Adult Institutions, prior to release, per PC 1202.1.
- 29a ☐ Submit to AIDS testing by S.D. County Health facility at _____; provide proof of testing to P.O.
- 30a ☐ Pay special fine of \$70 including penalty assessments, at \$ _____ per month through Revenue and Recovery, commencing _____ for crimes described in 1463.23 P.C.
- 31a ☐ Complete the County AIDS Education Course per 1001.10 P.C.; report to _____ (provider) at telephone _____ within 30 days/within 30 days of release from custody.
- 32a ☐ Pay fee not exceeding \$50 to AIDS Education provider in lieu of fine, for crimes described in 1463.23 P.C.

- 33a ☒ DNA Testing (in custody)
Submit to testing by SDSO/Adult Institutions per 290.2 P.C. prior to release from custody.

- 34a ☐ DNA Testing (out of custody)
Report for testing per 290.2 P.C. within 14 days to S.D. County Health Services Facility (between 8 a.m. and 9 a.m. Monday through Friday) at 1700 Pacific Highway, San Diego; provide proof of testing to P.O.

FURTHER CONDITIONS

- 35a ☐ Placed in _____ private placement facility for _____ days, with credit for _____ actual days and _____ days 4019 P.C. credits; Defendant waives future 4019 P.C. credits while in the facility; defendant to report to facility on _____.

- 36a ☒ Not use force or
violence on another

37a ☐38a ☐39a ☐40a ☐41a ☐42a ☐43a ☐

Leonardo Salcedo

CASE NUMBER:

CR 140382 0138

OTHER SPECIFIC CONDITIONS RELATING TO ALCOHOL; AND GANG RELATED CRIMES

19b ☒ Totally abstain from the use of alcohol; submit to testing for the use of alcohol when required by the Probation Officer.

20b ☐ Register/enroll within 30 days and satisfactorily complete the First Offender Drunk Driving Program as directed by Probation Officer, all costs to be borne by defendant.

21b ☒ Attend meetings of Alcoholics Anonymous as directed by the Probation Officer.

22b ☒ Take antabuse (if physically able, as determined by a licensed physician) under the supervision of the Probation Officer or his delegate and continue in program until excused by P.O. If physically unable to take antabuse, submit a written statement from physician verifying inability to do so.

23b ☒ Not frequent places where alcohol is the main item for sale except in the course of employment.

24b ☐ If arrested for drunk driving, submit to any chemical test of blood, breath or urine, for the purpose of determining the alcohol content of the blood.

25b ☒ Not drive unless licensed and insured as required by State of California.

26b ☐ Surrender your driver's license forthwith to court for forwarding to DMV pursuant to 13350-13351 V.C.

GANG CONDITIONS

27b ☐ Not appear in Court or at the Courthouse unless you are a party in the proceedings.

28b ☐ Have a photo ID card on your person at all times.

29b ☐ Not visit or frequent any schoolgrounds unless you are a student registered at the school.

30b ☐ Not be an occupant in any stolen vehicle or vehicle that you should have known was stolen.

31b ☐ If contacted by Law Enforcement, you are to provide your true name, address and date of birth; Further you are to report said contact or arrest in writing to your Probation Officer within 7 days and include date of contact/arrest, charges, if any, and contacting agency.

32b ☒ Not associate with any known gang member or persons who are associated with the Baccho gang.
Logan Encanto

33b ☐ Not own, transport, sell or have in possession any firearm, replica, ammunition, or other weapon, or any instrument used as a weapon; further, do not associate with any person who has firearms or weapons in their possession.

34b ☐ Not involve yourself in activities or frequent places where firearms or weapons are used either illegally or legally (hunting or target shooting).

35b ☐ Not be in possession of any beeper or paging device except in course of lawful employment.

36b ☐ Not be within two blocks of _____
(an area of gang or criminal activity).

37b ☐ Not wear, display, use or possess any insignias, emblems, badges, buttons, caps, hats, jackets, shoes, flags, scarves, bandanas, shirts or other articles of clothing which are evidence of affiliation with or membership in the _____ gang.

38b ☐ Not display any gang signs or gestures.

39b ☐ _____

40b ☐ _____

41b ☐ _____

42b ☐ _____

43b ☐ _____

44b ☐ _____

CASE NUMBER:

0139

Leonardo Salceda

CR 140382

ORDER TO PAY PROBATION COSTS/REFERRAL TO DEPARTMENT OF REVENUE AND RECOVERY

You are hereby ORDERED TO REPORT to the Department of Revenue and Recovery at the address checked below and to follow each specified order as checked in addition to those indicated on previous pages.

☒ Pay probation costs: \$ 888⁰⁰ for presentence investigation and \$ 43⁰⁰ per month for supervision; to the Probation Office through Revenue and Recovery at a combined rate of \$ 25⁰⁰ per month commencing 60 days after release

☒ REPORT to the Department of Revenue and Recovery for instructions regarding the REPAYMENT OF COURT APPOINTED ATTORNEY FEES in an amount to be determined.

Name of attorney

J. Carnasale
PD/APD/CA (circle)

☐ PAY COSTS OF TRANSCRIPTS ON ANY SUBSEQUENT APPEALS.

<input checked="" type="checkbox"/> Central Courthouse Room M-060 220 W. Broadway San Diego, CA	<input type="checkbox"/> North County Room C-65 325 S. Melrose Vista, CA	<input type="checkbox"/> East County Suite 210 1000 Broadway El Cajon, CA	<input type="checkbox"/> South Bay Third Floor 500 Third Chula Vista, CA
--	---	--	---

If it is determined by the Department of Revenue and Recovery that you have the present ability to repay the County for Court Appointed Attorney Fees, or the costs of transcripts on appeal, and you do not agree with such determination, you have the right to a hearing before the court to determine your present ability. Failure to report to the Department of Revenue and Recovery will be deemed a waiver of your right to a hearing on your present ability to repay the County, and a civil judgment will be entered against you for the amount of funds expended for the above services. Failure to pay a fine or restitution may result in a bench warrant being issued for your arrest. Execution may be issued on the order for costs of probation investigation/report, the costs of probation supervision, and the costs of transcripts on appeals, in the same manner as a judgment in a civil action (PC 1203.1b). Each of the above ordered amounts are to be paid to the Department of Revenue and Recovery.

FURTHER CONDITIONS:

Done in open Court:

8-11-93

Joan P. Weber
JOAN P. WEBER Judge of the Superior Court

CLERK'S CERTIFICATE

The foregoing is a full, true and correct copy of the original on file in this office.

KENNETH E. MARTONE
CLERK OF THE SUPERIOR COURT



ATTEST:

DATE

By

DEPUTY

ORDER GRANTING PROBATION PAGE

11

OF

NOTE: This order is incomplete unless SUPCT

730

STATE OF CALIFORNIA—YOUTH AND ADULT CORRECTIONS AGENCY

DEPARTMENT OF CORRECTIONS

CALIFORNIA MEDICAL FACILITY

VACAVILLE, CA 95687-2000

(707) 448-6841

PETE WILSON, Governor

0140



DATE: JULY 27, 1995

NAME: SALCEDO, LEOVARDO

FILE: E-35733

D/D: 10/94

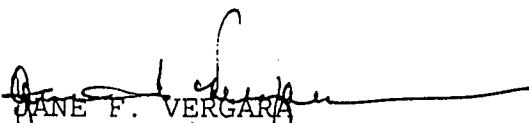
OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN DIEGO

Dear Sir/Madam:

This is to certify that the Director of the Department of Corrections is the official legal custodian of the records of prisoners committed to the California State Prisons, and has authorized the undersigned as Correctional Case Records Supervisor of the Department of Corrections to certify in his behalf the criminal records of persons who have served sentences in the California State prisons, including the certifications required under 969b of the California Penal Code.

I further certify that the copies of the commitment, photograph, fingerprints and chronological history and/or movement history are true and correct copies of those in my custody as required by law.

Sincerely,


JANE F. VERGARA
Correctional Case Records Supervisor
Departmental Archives Unit
(707) 449-6519



Court's Ex. 6
Case # SD112436
Rec'd 10-4-95
Dept 911-1 CLK

731

CHRONOLOGICAL HISTORY

DEPARTMENT OF CORRECTIONS

• CDC 11/2/03

0141

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STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

FINGERPRINT CARD

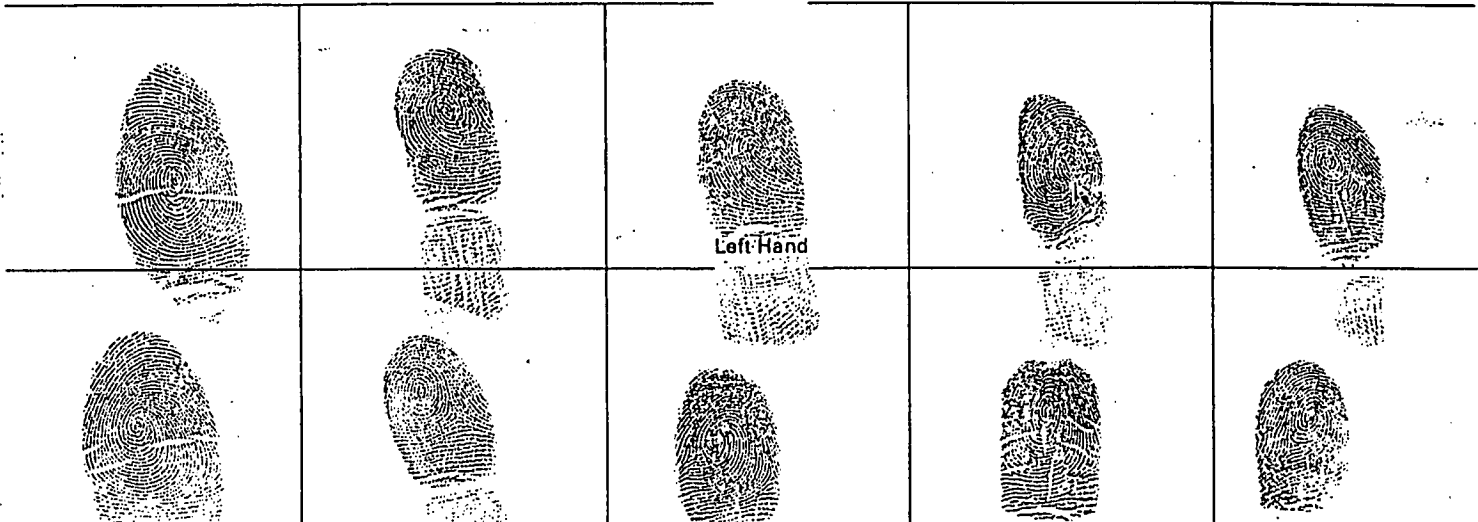
NO. E-35733NAME SALCEDA, LEOVARDO

CLASS _____

ALIAS _____

REF. _____

Right Hand



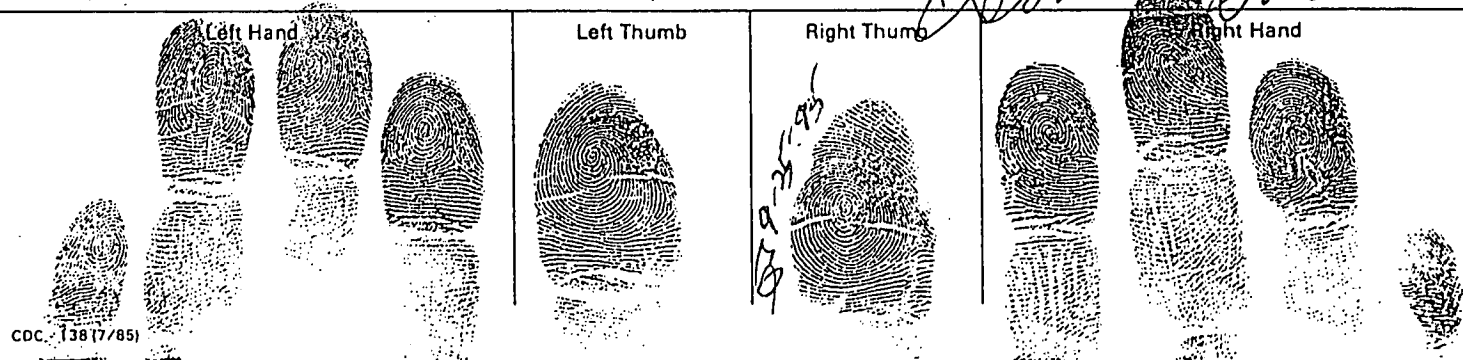
Left Hand

Hair <u>BLK</u>	Eyes <u>BRN</u>	Complexion <u>MED</u>	Height <u>5'6"</u>
Weight <u>140</u>	Age <u>20</u>	Build <u>SM</u>	Occupation <u>LANDSCAPE</u>
Rec'd at <u>RJD R/C</u>	Date <u>11-9-89</u>	County <u>SD</u>	Nativity <u>CALIF.</u>
Offense <u>CT 4 ROBBERY 2nd (212.5(B)PC</u>	see reverse	Term <u>4 years</u>	Race _____

Marks, Scars, Tattoos (Location & Brief Description — Scar Right Eye, Tattoo Eagle Right Forearm. NOTE: If numerous list those most prominent).

NONE

Taken by _____

Signature Leoardo Salceda

CDC 138 (7/85)

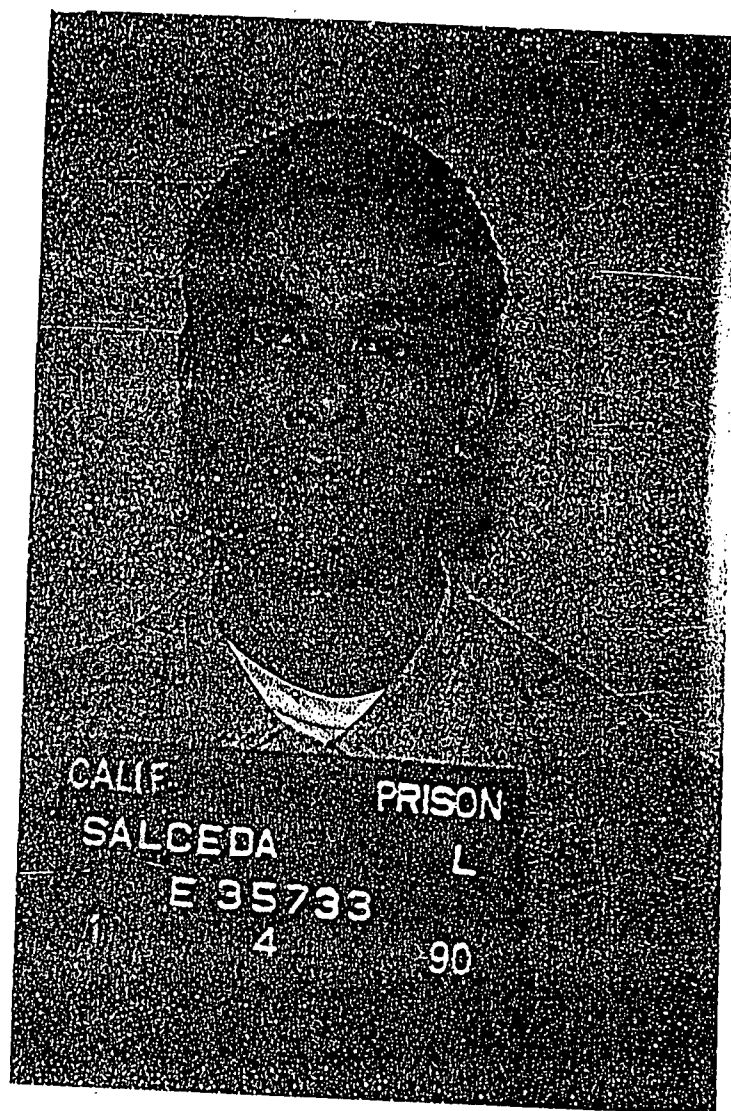
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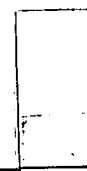
& USE(12022.5 PC)
CT 1 ROBBERY 2nd (212.5 (b)PC)
& ARMA (12022(a) PC)
CT 2 VEHICLE THEFT 910851 (A) VC)
& ARMA (12022(A) PC

0145



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SDS

CR SCD112436 DA P6236901

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

DATE 08-04-95 AT 09:00 M.

95127906

995PC HG

0210

PRESENT: HONE MAC AMOS

JUDGE PRESIDING DEPARTMENT M01

CLERK GERD KUETTNERREPORTER TERRI SMITHCSR# 7949

REPORTER'S ADDRESS: P.O. BOX 128, SAN DIEGO, CA 92112-4104

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.EDWARD MANTYLA for MICHAEL GORDON
DEPUTY DISTRICT ATTORNEYSALCEDA
DEFENDANT LEOVARDOB - P. DEFENDERS RONALD VAN ESTIAN
ATTORNEY FOR DEFENDANT (APPTD/RETAINED)VIOLATION OF PC209(B)PC207(A)PC664-215(A) *PC245(A)(1)

INTERPRETER

SWORN/CERT 5

LANGUAGE

DEFENDANT ☒ ~~NOT~~ PRESENT.☐ COUNSEL & DEFT. STIP TO PRELIM TRANS AS FACTUAL BASIS OF PC 995 MOTION.☒ DEFENDANT'S MOTION TO DISMISS PURSUANT TO PC 995 IS BY THE COURT GRANTED/DENIED SUBMITTED AS TO:

L

☐ DEFENDANT'S MOTION TO SUPPRESS EVIDENCE PURSUANT TO PC 1538.5 IS BY THE COURT GRANTED/DENIED/SUBMITTED AS TO:

A

W ☐ DEFENDANT'S MOTION FOR DISCOVERY IS GRANTED/DENIED/SUBMITTED AS TO:& ☐ PEOPLE'S MOTION FOR DISCOVERY IS GRANTED/DENIED/SUBMITTED AS TO:M ☐ OTHER MOTION:

	WITNESSES SWORN & EXAMINED:	PEO. DEFT.	NO.	EXHIBIT DESCRIPTION	MRKD	RCVD
T		[] []			[] []	
I		[] []			[] []	
O		[] []			[] []	
N		[] []			[] []	
		[] []			[] []	
		[] []			[] []	
		[] []			[] []	
		[] []			[] []	

CUSTODIOUS ☒ DEFENDANT REMANDED TO CUSTODY OF SHERIFF ☐ WITHOUT BAIL ☒ WITH BAIL SET AT \$ 150,000.00
☐ DEFENDANT ORDERED RELEASED FROM CUSTODY ☐ ON OWN/SUPERVISED RECOGNIZANCE ☐ CASE DISMISSED ☐ THIS CASE ONLY
☐ DEFENDANT TO REMAIN AT LIBERTY ☐ ON BOND POSTED \$ ☐ ON OWN/SUPERVISED RECOGNIZANCE.
☐ BAIL IS SET AT/REDUCED TO/INCREASED TO \$

FH Jury Trial CONTINUED TO/SET FOR 08-14-95 AT 9:00AM IN DEPT. MC-1
 UR ON MOTION OF COURT/DDA/DEFENDANT PROBATION OFFICER. REASON:
 TG

BW ☐ BENCH WARRANT TO ISSUE, BAIL SET AT \$ ☐ SERVICE FORTHWITH. ☐ ORDERED WITHHELD TO
 R ☐ BENCH WARRANT ISSUED/ORDERED IS RECALLED/RESCINDED.
 N ☐ BOND IS ☐ EXONERATED ☐ FORFEITED. AMOUNT \$ BOND NO.
 D ☐ BOND COMPANY AGENT
 S

OTHER:

E. Mac Amos, Jr.
 E. MAC AMOS, JR. JUDGE OF THE SUPERIOR COURT

Leovardo Salceda J-90933
CVSP, B3-260 Low
P.O. Box 2349
Blythe, California 92226

In pro per

Carmen Lopez (619) 264-5583
3893 Gamma Street
San Diego, California 92113

COURT OF APPEAL - FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re LEOVARDO SALCEDA

on

Habeas Corpus.

No. _____

Superior Court No. SCD112436

Prior Convictions CR105783,
CR140382

DECLARATION OF CARMEN LOPEZ IN SUPPORT OF PETITION FOR

WRIT OF HABEAS CORPUS FOR LEOVARDO SALCEDA

I, Carmen Lopez, declare the following, that if I am called to testify, I could and would competently testify that;

1.) I am 70 years old and I am the natural mother of Leovardo Salceda who is serving 26 years at Chuckawalla Prison. Leovardo is the petitioner in this cause of action a petition for writ of habeas corpus. That I am on a fixed income through social security of approximately \$500 a month and this said amount is for basic necessities of life, i.e., room, board, food, medical, clothing and traveling on city transit. That when financially possible I go to visit Leovardo every 3 months. Earnie Lopez gives me a ride to visit Leovardo at said prison.

That since Leovardo's incarceration on April 23, 1995, to the present day, inclusive this declaration, I have tried to help him regarding his case. I testified at Leovardo's trial and explained he was very drunk on April 23, 1995, the very day he was arrested and charged with kidnapping Russell Champion in instant case SCD-112436;

2.) That Leovardo explained to me through letters, phone calls, and visits about the alleged constitutional errors in his case and that he did not rob Rafael Haro. That Leovardo asked me to go to the San Diego Courthouse, to his attorney Mr. Mangarin SCD112436, and his previous attorney Mr. Youmans CR105783 and request to buy copies of his records to support his past conviction efforts in Leovardo's pleadings to the Court for relief. I have traveled on the San Diego City Bus and Trolley to the places of business mentioned above to obtain records for Leovardo's case. Sometimes I was successful to buy Court records, other times I was unsuccessful. Nevertheless I tried. I was not able to obtain records from either attorney mentioned above. That Angie C Camarena whom I live with did travel with me on the city buses and trolley to the places of businesses' mentioned above to obtain records. That the records I was able to obtain for Leovardo, I mailed to him via United States mail; and

3.) That I searched for Jesus H. Lopez for years but could not find him. That in 2004 I seen Rosanna Lopez (Jesus' niece) and she told me Jesus was in the San Diego County Jail. That Angie and I traveled on the city bus to interview Jesus regarding Leovardo's prior robbery case CR105783 and Jesus voluntarily agreed

to tell the truth that he in fact is the sole person who robbed Rafael Haro. And that Leovardo did not rob Haro. Jesus further told me that he is willing to testify regarding Leovardo's robbery case CR105783.

I declare under penalty of perjury under the laws of the State of California that hte foregoin is ture and correct.

Exeuted on Wednesday, November 23, 2005, at San Diego, California.

Respectfully submitted,

Carmen Lopez.
Carmen Lopez, Declarant.



Leovardo Salceda J-90933
CVSP, B3-260 Low
P.O. Box 2349
Blythe, California 92226

In pro per

Angie Camarena (619) 264-5583
3393 Gamma Street
San Diego, California 92113

COURT OF APPEAL - FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re LEOVARDO SALCEDA

on

Habeas Corpus.

No. _____

Superior Court No. SCD112436

Prior Convictions CR105783,
CR140382

DECLARATION OF ANGIE CAMARENA IN SUPPORT OF PETITION FOR
WRIT OF HABEAS CORPUS FOR LEOVARDO SALCEDA

I, Angie Camarena, declare the following, that if I am called to testify, I could and would competently testify that;

1.) I am 50 years old and Carmen Lopez whom lives with me is Leovardo Salceda's mother. Leovardo is serving 26 years at Chuckawalla Prison. Leovardo is the petitioner in this cause of action a petition for writ of habeas corpus. That neither Carmen nor myself can afford to hire an attorney to represent Leovardo. That I was present on Leovardo's behalf at his Court hearing - sentencing and also submitted a letter to Judge Amos asking for leniency on behalf of Leovardo;

2.) That Leovardo has explained to me through letters and phone calls the alleged constitutional errors in his case and that he did not rob Rafael Haro. That Leovardo asked me and Carmen to the San Diego Courthouse, to his attorney Mr. Mangarin SCD112436, and his previous attorney Mr. Youmans CR105783 and request to buy copies of records to support his post conviction efforts in Leovardo's pleadings to the Court for relief. I have traveled with Carmen on the San Diego City Bus and Trolly to the places of business mentioned above in attempts to obtain records. That the records we were able to buy from the Courthouse we sent to Leovardo via United States mail. Sometimes Carmen and I were unsuccessful to buy Court records. Nevertheless we tried. We were not able to obtain records from either attorney mentioned above; and

3.) That Carmen searched for Jesus H. Lopez for years but could not locate him. But finally in 2004 Carmen seen Rosanna Lopez (Jesus' niece) and Rosanna told Carmen that Jesus was in San Diego County Jail. Carmen and I traveled on the city bus to interview Jesus regarding Leovardo's prior robbery case CR105783 and Jesus voluntarily agreed to tell the truth that he in fact is the sole person who robbed Rafael Haro. That Leovardo did not rob Haro. Jesus further told Carmen and me that he is willing to testify regarding Leovardo's robbery case CR105783.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on Wednesday, November 23, 2005, at San Diego, California.

Respectfully submitted,

Angie Camarena
Angie Camarena, Declarant.

Declaration of Angie Camarena page 2 of 2

Exh. B'4

Exhibit

- C Declaration of Leovardo Salceda in Support of Application for Equitable and Statutory Tolling 28 USC 2241, and Petition for Writ of Habeas Court 28 USC 2254 in Federal Court

**DECLARATION OF LEOVARDO SALCEDA IN SUPPORT OF APPLICATION FOR
EQUITABLE AND STATUTORY TOLLING 28 U.S.C. 2244, AND PETITION FOR
WRIT OF HABEAS CORPUS 28 U.S.C. 2254**

ORIGINAL

I, Leovardo Salceda, declare as follows:

1. I make the following declaration of facts based on my own knowledge and, if called, can testify competently thereto;
2. I am the defendant in the instant kidnapping case, 1995, People v Salceda, Case # SCD11243. I was charged as a 3 Strikes Case because in 1989 I was convicted of 2 robberies, Case # CR105783, and in 1993 I was convicted of 1 assault W/D/W, Case # CR140382,
3. Ronald K. Vanesain, Public Defender, was appointed to represent me. Vanesian filed a Cal. Penal Code 995 motion to dismiss all counts, and a 1385 motion to dismiss strikes. The prosecutor filed opposition to both motions. On 8-4-95 a hearing was held on the 2 motions, and the trial court denied both motions. At this 8-4-95 hearing, I asked Vanesain to give me copies of all relevant legal papers of the instant case, and also of prior conviction cases. I.e., Informaions, preliminary hearings, police and police reports, etc. I never received them.
4. Vanesian told me Dr. Clark Smith, psychiatrist, would evaluate me. On 8-9-95 Dr. Smith interviewed me and I answered all questions. In particular, Dr. Smith asked me about the instant offense. I explained I was very drunk. Dr. Smith asked me about the prior robbery case and I explained I was very drunk and that another person was actually responsible for the robbery.
5. On 8-11-95 a court hearing was held and Vanesain declared conflict of interest. The trial court did not investigate on the record the basis for the conflict, nor did Vanesain explain the

ORIGINAL

reasons for declaring the conflict. But importantly and specifically, Vanesain told me he declared conflict of interest because Dr. Smith's report disclosed material facts directly related to the prior robbery case. That William Youmans, former Public Defender, was ineffective for failure to introduce intoxication evidence in the court trial to negate the prior robberies. Vanesain said he could not investigate Youmans because they worked in the the same public defender office, so new counsel would be appointed to investigate whether Youmans was ineffective, and possibly be grounds to strike the 2 prior robbery strikes.

6. On 9-3-95 Daniel J. Mangarin, Alternate Defender, interviewed me concerning the instant kidnapping case, and that I was exposed to several life sentences because of the prior robbery and assault cases. I explained to Mangarin the reasons Vanesain declared conflict. I also told Mangarin that I did not rob Rafael Haro in the prior robbery case, that Jesus Lopez, robbed Haro. And Juan Sanchez said that Haro went to court and said I did not rob him. Mangarin told me that he would not investigate the conflict of interest, nor my claim of innocence. During the 9-3-95 attorney/client interview, I asked Mangarin for records of my instant case and also of the prior robbery and assault cases. Mangarin did not give me copies of records that I requested.
7. In 1996, Handy Horiye was my appeal attorney. he wrote to me and asked whether I wanted to raise "issues" for the appeal. I wrote and explained 1) prejudicial conflict of interest that affected Mangarin's trial performance resulting in ineffective assistance of counsel; 2) that I testified in the instant case and claimed I did not rob Haro in the prior robbery case. That Haro recanted his preliminary hearing identification of me; and 3) when I testified in the instant case, the prosecutor cross-examined me about the prior robbery case. The prosecutor falsely claimed I signed a "change of plea form" in prior robbery case. THE IMPORTANCE

THAT NO SUCH PLEA FORM EXISTS IS THAT A PLEA FORM WOULD HAVE BOYKIN-TAHL WAIVERS ON ITS FACE. HOWEVER, NO PLEA FORM EXISTS. I did not personally, voluntarily, intelligently and knowingly waive Boykin-Thal rights in the prior robbery case. Had I understood the rights, and known Haro told the prosecutor he misidentified me at preliminary hearing, and Sanchez stated I did not rob Haro, that some other person with brown hair robbed Haro, I would not have submitted the incriminating transcript. The preliminary hearing is the only evidence that was used to convict me of the two prior robberies.

8. I did not rob Rafael Haro in the prior robbery case. Jesus Lopez robbed Haro. Lopez ordered me at gun point to rob the gas station. Or I would not have robbed the gas station.
9. From 8-13-97 to 3-6-03 I was at Lancaster Prison and was assigned to vocational trades and prison jobs and was forced to attend or face disciplinary punishment.
10. From 8-13-97 to 3-6-03 I was at Lancaster Prison and during these 5 1/2 years there were numerous yard stabbings and neck slashings. There were 3 racial riots on the yard I was on. Lancaster Prison declared 5 state of emergencies. This was the reason for continuous lockdowns and prevented me from going to the law library to research, investigate and
11. When I filed motion for settled on 9-20-01 seeking Haro's exculpatory statement, I served the prosecutor a copy of the motion. And every other pleading from there forth up until comply with rules of court, rules of law, and avoid ex parte communication. The prosecutor's and attorney general knew I looked for Haro's exculpatory statement.
12. On 8-14-02 I was diagnosed with chronic Crohn's disease. Since then, 6 colonoscopies have been performed on me. I am continuously bleeding internally, often weak, and take medication daily. The medications I take often have serious side effects causing headaches

and fatigue. My sickness has seriously affected my ability to prepare my pleadings to the court's in a timely manner. Until the present day, 3-30-08, I am sick and bleeding internally. From January 2008 to March 2008 I have been going to the doctor's complaining of my sickness because I have gotten sicker.

13. I was arrested for the instant kidnap case on 4-23-95. I was indigent and illiterate. On 9-24-98 while I was in vocational office machine repair I was tested and scored grade point level 7.6.
14. On 3-25-98, the court of appeal affirmed the 26-year sentence D029086. I did not have any records of instant case, nor of prior cases. I wrote to Superior Court, defense attorney's, prosecutor's, police department, Department of Justice, Innocence Project, and searched for witnesses.
15. In September 2003, I wrote to Innocence Project seeking help in proving my innocence of the robbery of Haro.
16. My mother Carmen Lopez, and aunt Angie Camarena went on my behalf to the San Diego Superior Court and Public Defender to help me gather records. They searched for witnesses.
17. The prison law library at Lancaster Prison and Chuckawalla Prison have been inadequate. Libraries are often closed because of staff shortage, and legal books are outdated. AEDPA legal materials are outdated and scarce. Up to the present day, another memo has been posted that library is limited to inmates with court deadlines and seating is limited.
18. I bought a copy of my prior robbery case file CR105783. The file was stored at the San Diego Courthouse. The slow plea record shows I did not personally, intelligently and voluntarily waive my rights to confront witness against me and against self-incrimination.

19. When I testified in the instant kidnapping case, I denied commanding Russell Champion to drive. I was intoxicated but never had the general criminal intent to kidnap Champion.
20. The equitable and statutory claims, and the habeas claims, I have diligently tried to prepare in a timely manner. However, lockdowns, library often closed, making sufficient copies for exhibits and equitable and habeas claims has been difficult. I have diligently went around the prison yard, wrote to organizations and attorney's, and to other inmates seeking guidance and copies of case law, statutory law, and constitutional law because I cannot rely on the library. This declaration was dated 3-30-08 (which correlates with equitable and habeas claims) but because I was unable to complete the equitable and habeas claims until the present day 6-6-08 I now sign this declaration and equitable and habeas claims this date.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 6, 2008, at Chuckawalla Valley State Prison, in Blythe, California.

Respectfully Submitted,

Leovardo Salceda

Petitioner / Declarant, in pro se.

6-6-08

Leovardo Salceda J-90933
CVSP, D9-237 Low
P.O. Box 2349
Blythe, CA 92226

Exhibits

- D Grade Point Level 7.6, 9-24-98
- D1 Petitioner's Notes in San Diego County Jail of Requests and Complaints that Trial Counsel did not Provide Copies of Instant Case SCD112436, and also of Prior Conviction Cases CR105783 and CR140382
- D2 Prison Vocation Trades and Prison Jobs, 8-13-97 to present day 3-30-08
- D3 Lancaster Prison Maximum Security, Consistant Lockdowns, 8-13-97 to 3-6-03
- D4 Petitioner Diagnosed with Cronic Crones Disease, 8-14-02 to present day 3-30-08
- D5 Inadequate Prison Law Libraries , *Prison Over Crowding , 4-28-02 to present Day 5-16-08*

GRADE

ATTITUDE	9-SATISFACTORY UN-SATISFACTORY
ADAPTABILITY	S
CONDUCT	S
COOPERATION	S
DEPENDABILITY	S
INITIATIVE	S

TOTAL CERTIFICATION UNITS IN COURSE:

VOCATION (VOC)	35
ADULT BASIC EDUCATION (ABE)	
GENERAL EDUCATION DEVELOPMENT (GED)	
HIGH SCHOOL (HSCH)	
ENGLISH SECOND LANGUAGE (ESL)	

TOTAL CERTIFICATION UNITS PRIOR TO THIS QUARTER: **0**

SPECIAL CERTIFICATE UNITS COMPLETED

03.02.01, 02, 03, 04

STUDENT NUMBER	DATE STUDENT TERMINATED	REASON FOR TERMINATION
10-98		

STUDENT'S COMMENTS: **M SALCEDA IS COOPERATIVE AND CONDUCTS HIMSELF IN A MATURE MANNER. HE REPORTS TO CLASS ON TIME AND DOES NOT HAVE TO BE REMINDED OF CLASSROOM RULES. HE NEEDS TO CONCENTRATE MORE ON HIS STUDIES.**

10/9/98	OFFICE MACHINE REPAIR	GRADE C+	INSTRUCTOR J. COLLINS
J-90933	SALCEDA, L	CSP/LAC	

EDUCATION PROGRESS REPORT

CDC 128-E (7/1989)

NAME and NUMBER **SALCEDA J-90933**

CDC 128-B REV (4/74)

TESTS OF ADULT BASIC EDUCATION SCORES: FORM 7 LEVEL M DATE TESTED 9/24/98

READING 9.6 MATH 8.2 LANGUAGE 4.0 SPELLING 8.5 AVG. TOTAL 7.6

DISTRIBUTION: C-FILE
 INSTRUCTOR OFFICE MACH REP/D-YARD
 EDUCATION FILE
~~INMATE~~

E. MENDOZA,
 SUPERVISOR OF ACADEMIC INSTRUCTION

DATE **October 15, 1998**

TABE TEST SCORES

GENERAL CHRONO

Exh. D

F

THE DAY BEFORE MY TRIAL SEPTEMBER 24, 1995 MY ATTORNEE DANIEL MANGARIN OF THE ALTERNATE PUBLIC DEFENDERS OFFICE HAD A PROFESSIONAL VISIT WITH ME. I DID NOT HAVE ANY LEGAL PAPER WORK ABOUT MY PRESENT CASE. EVEN THOUGH I REQUESTED SEVERAL TIMES TO HAVE COPIES OF ALL LEGAL PAPER WORK ON MY CASE, AND ALSO MY PREVIOUS CASES, BECAUSE MY CASE IS A THREE STRIKES CASE. I REQUESTED TO BOTH OF MY ATTORNEYS, RONALD VANESZAN (PUBLIC DEFENDER) AND DANIEL MANGARIN (ALTERNATE PUBLIC DEFENDER) (DECEMBER 1995.)

I, Leonardo Salceda, declare under penalty of perjury that I wrote these NOTATIONS while I was in County jail in 1995. They are my complaints that I was not given copies of any and all legal papers in my instant case SCD112436 and prior convictions CR105783 and CR140382 although I personally requested to Mr. Mangarin for copies several times. I was a "3 strikes" case in 1995 and had a right to know all evidence in my favor and against me to help defend myself. I, Leonardo Salceda, declare under penalty of perjury that the foregoing is true and correct (THE NOTATIONS OF 1995) that I did request copies of my cases from Mr. Mangarin but did not receive the copies. Leonardo Salceda J-90933. August 29, 2005

Blythe, California
Chuckawalla Prison

1995 NOTATIONS
8. 70-14 OF REQUESTS
TO Mr. Mangarin
FOR COPIES OF MY
LEGAL PAPERS IN
SCD112436, CR105783
AND CR140382.
August 28, 2005
Leonardo Salceda J-90933
Chuckawalla Prison
Blythe, California

Page 1 of 4 (NOTATIONS)

9-

Exhibit D1

0
R
FEL
FOR ME, EVIDENCE IN MY CASE, I WAS NEVER GIVEN
ANY LEGAL PAPER WORK IN MY CASE. EVERYTIME I
WENT TO COURT I WAS "WISPERED TO" FOR ONLY A FEW
MINUTES. I NEVER HAD COURT HEARING ON DISCOVERY,
PRE-TRIAL, READINESS, BASICLY I WAS IN THE
DARK THROUGH OUT MY CASE, I DECEMBER 1995.

WHAT THE LEGAL PERSIDULES ARE.

Page 2 of 4 (NOTATIONS)

Exh. D1

I, Leonardo Salceda declare under penalty of perjury that I wrote these NOTATIONS while I was in County Jail in 1995. They are my complaints that I was given not given copies of any and all legal papers in my instant case SC0112436 and prior convictions CR105783 and CR140382 although I personally requested to Mr. Mangarin for these copies several times.

I was a "3 strikes" case in 1995 and had a right to know all evidence in my favor and against me to help defend myself. I, Leonardo Salceda, declare under penalty of perjury that the foregoing is true and correct (THE NOTATIONS OF 1995) that I did request copies of my cases from Mr. Mangarin but did not receive the copies. Leonardo Salceda J-90938. August 28, 2005 Boyle, California, Chukawalla Prison

THE DAY BEFORE MY TRIAL SEPTEMBER 24, 1995 - MY ATTORNEY DANIEL MANGARIN HAD A PROFESSIONAL VISIT WITH ME. WE ^{NEVER FULLY REVIEWED MY CASE.} WERE SORT OF REVIEWING MY CASE. MY ATTORNEY STATED TO ME HE WOULD OF LIKED TO HAVE BEEN THERE FOR PREVIOUS HEARINGS. ASKED ME HOW TALL WAS RUSSELL CHAMPION, I EXPRESSED MUCH TALLER THAN MYSELF, OF WHAT I SEEN AT PRELIMINARY HEARING, AND MY ATTORNEY WAS NOT CERTAIN IF IT WAS A WATER METER COVER OR ROCK AS EVIDENCE IN MY CASE. THE MAN RUSSELL CHAMPION IS A HOMOSEXUAL, AS I WAS INFORMED, BY HIS NEIGHBORS, MY PREVIOUS ATTORNEY RONALD K. VANESIAN (PUBLIC DEFENDER) ALSO TOLD ME HE SUSPECTED RUSSELL CHAMPION AS BEING HOMOSEXUAL BECAUSE HE TALKED TO RUSSELL OFF THE RECORD IN COURT. MY PROBLEM IS I FEEL MY PRESENT ATTORNEY DANIEL MANGARIN (ALTERNATE PUBLIC DEFENDER) WAS NOT FULLY PREPARED FOR MY TRIAL. AS I INSISTED RUSSELL CHAMPION → PICKED ME UP. I REQUESTED SEVERAL TIMES TO BOTH OF MY ATTORNEYS FOR COPIES OF ALL MY LEGAL PAPER WORK IN THIS PRESENT CASE, POLICE REPORTS, PRELIMINARY HEARING, INVESTIGATIVE ^{LEGAL PRESTIDGES} REPORTS OF THE D.A. AND MY ATTORNEY, AND, I ALSO REQUESTED COPIES OF MOTIONS, COPIES OF MY PREVIOUS CASES, BECAUSE THIS IS A THREE STRIKE CASE, AND I DO HAVE A RIGHT TO KNOW WHAT IS SAID AGAINST ME

Page 3 of 4 (NOTATIONS) DECEMBER 1995.

Exh. D1

The day before my trial my attorney pulled
 me out to a professional visit. My attorney

The day before my trial my Attorney
 DANIEL MANGARIN OF THE ALTERNATE PUBLIC
 DEFENDERS OFFICE had a professional visit
 with me. I did not have any paper
 work on my case. Although I requested
 several times to have police reports,
 investigative reports, evidence, and paper
 work on ^{my} this present case, I was never given
 copies of documents, evidence, and investigative
 reports as to what was said by witnesses.

On any kind of paper work related to
 my case. My attorney did not know the victims
 size, I had to estimate from what I saw
 at pre-liminary hearing. Did not if the
 evidence was a water meter cover, or
 rock. He is my attorney how he could not
 know. Also my view ^{my attorney} he was not prepared
 to go trial the next day. December 1995.

Page 4 of 4 (NOTATIONS)

Exh. D1

STATE OF CALIFORNIA
CDC 101 (199)

WORK SUPERVISOR'S REPORT

DEPARTMENT OF CORRECTIONS

GRADE		GRADE		GRADE	
1 - EXCEPTIONAL	1	A. DEMONSTRATED SKILL AND KNOWLEDGE	1	F. TEAMWORK AND PARTICIPATION	1
2 - ABOVE AVERAGE	1	B. ATTITUDE TOWARD FELLOW INMATES AND WORKERS	1	G. LEARNING ABILITY	1
3 - SATISFACTORY	1	C. ATTITUDE TOWARD SUPERVISORS AND STAFF	1	H. USE OF TOOLS AND EQUIPMENT	1
4 - BELOW AVERAGE	1	D. INTEREST IN ASSIGNED WORK	1	I. QUALITY OF WORK	1
5 - UNSATISFACTORY	1	E. EFFORT DISPLAYED IN ASSIGNED WORK	1	J. QUANTITY OF WORK	1
PREV STATUS	FROM: 15	TO: 18	FROM: J90933	TO: J90933	TO: J90933
TOTAL Hrs Assigned:	37.50	TOTAL Hrs Worked:	37.50		
DATE ASSIGNED TO:	8/13/97	ACTUAL WORK CONSISTED OF:	Scanner, Inventory, ASSY. of orders.		PERIOD COVERED BY REPORT
D-CANTEEN					8-97/11-01-97
RECOMMENDED FOR:					INMATE'S INITIALS
<input type="checkbox"/> REASSIGNMENT <input checked="" type="checkbox"/> RETAIN <input checked="" type="checkbox"/> PAY INCREASE <input type="checkbox"/> PAY DECREASE					<i>L.S.</i>
CONTENTS OF MORE SPACE REQUIRED, USE REVERSE SIDE					INMATE'S INITIALS
Very motivated, conscientious, & respectful					<i>L.S.</i>
SUPERVISOR		LENGTH OF SUPERVISION	WORK UNIT	ETHNICITY	
L. Knight		3 mo.	D-Canteen	Mexican	
OFF NAME		CDC #	INSTITUTION	DATE	
SALCEDA, L.		J-90933	CSP-LAC	11/31/97	

Assignment Ducat/Activity Card

CDC#: J90933 SALCEDA, LEOVARDO
 EFF: 05/30/1998
 BED#: FDB4 220L
 LOC: DFSA
 RDO: M T
 JOB#: DRU-D.216 D CUL.2/W
 HRS: 0400-0530 0600-1130

AUTHORIZED BY: *[Signature]*

Assignment Ducat/Activity Card

CDC#: J90933 SALCEDA, LEOVARDO
 EFF: 07/10/1998
 BED#: FDB4 220L
 LOC: DUMB
 RDO: SU M T H
 JOB#: OMRD.205 D/V OFFICE MACHIN
 HRS: 0645-1600 1215-1600

AUTHORIZED BY: *[Signature]*

Assignment Ducat/Activity Card

CDC#: J90933 SALCEDA, LEOVARDO
 EFF: 03/06/1999
 BED#: FDB5 135L
 LOC: 05HU
 RDO: F S
 JOB#: CLK-D.511 D-5 PED CLERK
 HRS: 0800-1400 1530-2030

AUTHORIZED BY: *[Signature]*

Assignment Ducat/Activity Card

CDC#: J90933 SALCEDA, LEOVARDO
 EFF: 05/16/2001
 BED#: FBB5 128L
 LOC: BVDA
 RDO: TH F S H
 JOB#: OSS-B.107 B/V OFFICE SERV-A
 HRS: 0630-1545 0630-1015

AUTHORIZED BY: *[Signature]*

Assignment Ducat/Activity Card

CDC#: J90933 SALCEDA, LEOVARDO
 EFF: 04/24/2002
 BED#: FBB5 235L
 LOC: BLTB
 RDO: F S H
 JOB#: CLK-B.501 B-LIBRARY CLK/PT
 HRS: 0730-1130 1200-1530

AUTHORIZED BY: *[Signature]*

Assignment Ducat/Activity Card

CDC#: J90933 SALCEDA, LEOVARDO
 EFF: 03/25/2003
 BED#: B3 164U
 LOC: FSBP
 RDO: SU M
 JOB#: DRLEB.088 B-PM LINESERVER
 HRS: 1200-1615 1645-2000

AUTHORIZED BY: *[Signature]*

Assignment Ducat/Activity Card

CDC#: J90933 SALCEDA, LEOVARDO
 EFF: 04/12/2003
 BED#: B3 164U
 LOC: PSB2
 RDO: M T
 JOB#: CLKAB.021 B-2W/3W PROG CLK
 HRS: 0700-1100 1130-1500 1400-2200

AUTHORIZED BY: *[Signature]*

Assignment Ducat/Activity Card

CDC#: J90933 SALCEDA, LEOVARDO
 EFF: 05/07/2005
 BED#: B3 260L
 LOC: BVDA
 RDO: S SU H
 JOB#: OSSB.021 B OFFICE SERV STD
 HRS: 0625-1100 1130-1325

AUTHORIZED BY: *[Signature]*

Assignment Ducat/Activity Card

CDC#: J90933 SALCEDA, LEOVARDO
 EFF: 05/17/2007
 BED#: C6 237L
 LOC: BRGC
 RDO: S SU H
 JOB#: TEA-C.005 C6 BRIDGING TUTOR
 HRS: 0600-1100 1130-1345

AUTHORIZED BY: *[Signature]*

Exh. D2

Assignment Ducat/Activity Card

CDC#: J90933 SALCEDA, LEOVARDO

EFF : 04/05/2008

BED#: D9 237L

LOC : EAD1

RDO : S SU H

JOB#: CLK&D.205 ELD/1&2 TUTOR

HRS: 0615-1100 1130-1345

AUTHORIZED BY: *ra*

Memorandum

Date : February 11, 2000

To : ALL CONCERNED

Subject : LOCKDOWNS/PROGRAM MODIFICATIONS/FACILITY D, CSP-LAC

The following dates reflect those times where Facility D, CSP-Lancaster has been placed on either lockdown or program modification during the period of January 1999, through February, 2000.

Such conditions have resulted not only in segments of the inmate population being placed on such status, but also those where the entire facility was locked down, with no inmate movement, to enable yard and housing unit areas to be searched.

In addition to these dates listed, there was a period between July 19, and August 2, 1999 where this and other institutions were placed on a "State of Emergency", with no inmate movement during extensive searches being conducted.

All dates given reflect only that information found within the files of the Men's Advisory Council:

1/04/99 - 1/26/99; 2/09/99 - 2/23/99; 2/19/99; 5/21/99; 5/24/99; 5/28/99;
6/03/99; 6/28/99; 7/11/99; 8/09/99; 8/25/99; 9/10/99; 10/01/99; 10/16/99;
10/18/99; 10/20/99; 11/04/99; 12/10/99; 12/29/99; 1/03/00; 1/22/00;
1/26/00.



T.M. Simmons
Chairman, MAC
Facility D; CSP-LAC

Exh. D3

State of California

Memorandum

Date : July 3, 2001

To : ALL STAFF
ALL INMATES

Subject: CALIFORNIA STATE PRISON-LOS ANGELES COUNTY, "STATE OF EMERGENCY"

This is to advise you, effective July 4, 2001, per the California Code of Regulations (CCR), Title 15, Section 3383, a "State of Emergency" has been declared for the California State Prison-Los Angeles County.

The declaration of a "State of Emergency" is based on the June 22, 2001, discovery of a potentially serious breach of security. Thorough searches will be completed of all level IV facilities and operations. Due to the discovery of dangerous contraband continuing up to and including July 3, 2001, a "State of Emergency" is now warranted.

In conformance with the CCR, Title 15, Section 3383, all non-essential operations, procedures, services or functions, and normal time limits are suspended to control and contain the situation. The lockdown status will be reviewed daily. The current status of the lockdown is as follows:

1. Feeding - Cell feeding
2. Critical Workers - As approved by facility captain
3. Showers - Every 72 hours
4. Law Library - None at this time, will commence for PLU within 7 days
5. Visiting - Visiting under escort
6. Medical - Emergency only. Critical medication distributed in the unit
7. Canteen - None
8. Dayroom - None
9. Yard - None
10. Phones - None
11. Chapel - None

Modifications to this order will be issued as needed.

If you have any questions, you may contact L. L. Schulteis, Associate Warden, at extension 6919.



E. ROE
Warden
CSP-Los Angeles County

Exh. D3

Contraband brings prison lockdown

LANCASTER, CALI
CIRCA 7-6-01
PAGE A-1

PRISON:

Earliest end
to lockdown
to be July 17

State starts internal investigation

By BART WEITZEL
Valley Press Staff Writer

LANCASTER — The Lancaster prison has been in a declared state of emergency and locked down since July 4, after guards found prisoners with cell phones, weapons, drugs and other contraband.

The discovery triggered an internal prison investigation by California Department of Corrections investigators into how the contraband got into the California State Prison Los Angeles County.

Prison spokesman Curtis Carson confirmed the findings Monday, but would not comment on the nature of the other contraband, which report-

edly includes cellular phones and a list of guards' names and addresses.

"I can't comment on that because it is part of an ongoing investigation," Carson said. "But we've found inmate-manufactured weapons, drugs, drug paraphernalia, and some inmates had personal items like personal shoes that are not on the list of allowable items."

An example of shoes that are not on the allowed items list are the pump-type tennis shoes that have air bladders inside them. The bladders can be used to hide drugs and other contraband, Carson explained.

"In the past we have suspended

visitors for wearing in those types of shoes and then swapping shoes with the prisoners they were visiting," he added.

Carson would not comment on the depth of the investigation or if the probe involved prison guards or employees helping get the contraband into the facility, on 60th Street West between avenues I and J.

The contraband was found June 22 in the facility's "B" yard, one of four separate maximum-security yards at the prison.

Carson said some prisoners had "modified" their cells by painting them or making other nonstandard

See PRISON on A8

From A1

modifications, adding that Warden Ernie Roe is cracking down on those modifications and making the prisoners return the cells to their original conditions.

The contraband found was so serious that Roe sought and was granted permission from the state correctional authority to declare a state of emergency.

A number of inmates have been placed in "administrative segregation," or what prisoners call solitary confinement.

"I knew they were investigating and they took it very seriously and that they were locking down," said Lancaster Assistant City Manager Dennis Davenport, who also sits on the prison's citizens advisory committee. "It doesn't sound very good."

Under lockdown conditions, prisoners are fed in their cells and are not allowed out into the exercise yards. They are allowed normal visits and showers, according to Carson, but most privileges have been restricted.

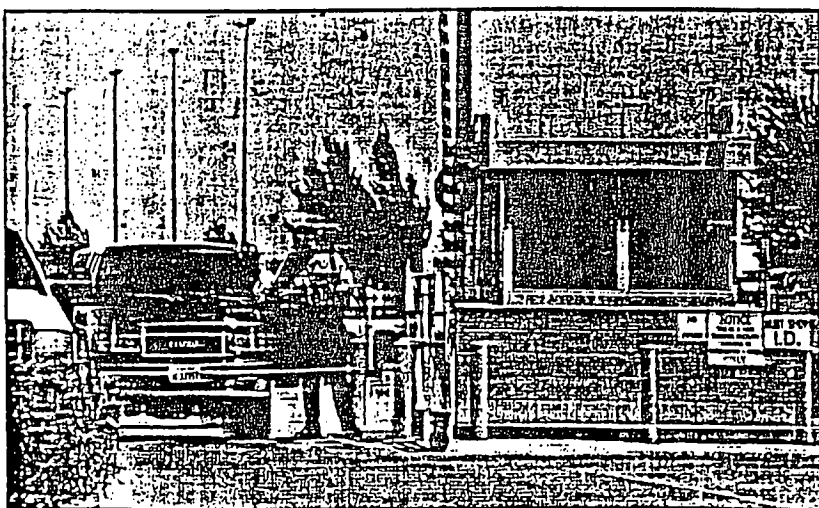
"They notify us because when they are on lockdown, the cleanup crew that works around the city is not allowed out," Davenport said.

The prison also is in a state of transition because its "C" yard is being transformed into housing for sensitive-needs prisoners.

An example of a sensitive-needs prisoner would be a convicted child molester who cannot be placed into the general population because other inmates might try to injure or kill him.

Carson said plans eventually are for the "C" yard to house about 800 sensitive-needs prisoners and about 160 prisoners under psychiatric care and on prescription medication.

In the meantime, guards are conducting regular intense searches looking to clean up inside the prison, Carson said. July 17 would be the earliest date lockdown conditions could be relaxed and the prison could return to normal routine, he said.



CRACKING DOWN

California State Prison Los Angeles County is conducting an internal investigation with the yards under lockdown and inmates being left inside their cells. Authorities are looking into large amounts of contraband found in the possession of prisoners.
RON SIDDLE
Valley Press

Exh. D3

Date : December 26, 2001

To : All Staff
All Inmates

Subject: CALIFORNIA STATE PRISON-LOS ANGELES COUNTY, "STATE OF EMERGENCY"

In conformance with the California Code of Regulations (CCR), Title 15, Section 3383, a "State of Emergency" has been declared for the California State Prison-Los Angeles County (LAC) effective December 26, 2001.

The declaration of a "State of Emergency" is based upon; staff assaults, inmate assaults, the December 20, 2001, riot on Facility 'B' involving all races, and the discovery of dangerous contraband up to and including the aforementioned riot. Thorough searches will be completed of all Level IV facilities and operations.

In conformance with the CCR, Title 15, Section 3383, all non-essential operations, procedures, services or functions and normal time limits are suspended to control and contain the situation. The current status of the lockdown is as follows:

- Feeding – Cell feeding
- Critical Workers – As approved by the Facility Captain
- Showers – Every 72 hours
- Law Library – Approved court deadlines
- Visiting – Facility B Non-Contact, Facilities A, C, D, MSF Normal.
- Medical – MTA conduct rounds in the units
- Canteen – None
- Dayroom – None
- Recreation – None
- Phones– None
- Chapel – Modified with input from the Chaplains

The review of this "State of Emergency" will be conducted daily. You will be kept advised of any further developments.

E. ROE
Warden

CSP-Los Angeles County

Exh. D3

Valley Press

More Antelope Valley People Read the Valley Press Than Any Other Newspaper
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Partly cloudy;
chance of
showers. Highs
upper 40s to lower
50s. Lows in upper
20s to lower 30s.

Weather
Antelope Valley
6/10/08

Largest-ever riot hits prison

Up to 400 prisoners fight in yard

By ALAN SCHNEPP
Valley Press Staff Writer
LANCASTER — At least five inmates sustained serious stab wounds in the largest riot ever at the state prison in Lancaster, an eruption of violence involving up to 400 inmates brawling in a prison yard. No guards were hurt, according to prison authorities.

Ron Nipper, a public information officer for California State Prison Los Angeles County, said prison staff quelled the riot within minutes, using pepper spray, tear gas and wooden bullets fired from a 37 mm gun.

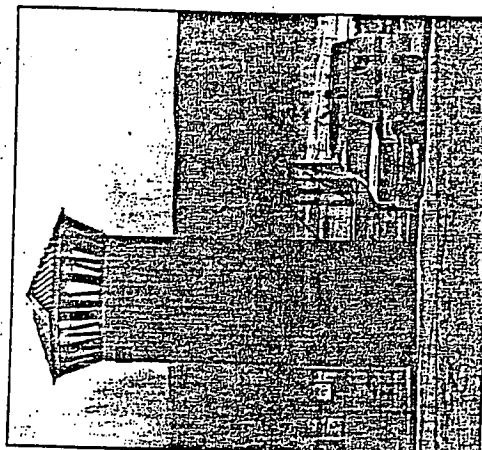
Guards fired three rounds, but only as warning shots, according to Margot Bach, a spokeswoman for the California Department of Corrections.

The most serious fighting lasted about two or three minutes. After that, prison staff spent about 10 or 15 more minutes quashing "pockets of resistance," Bach said.

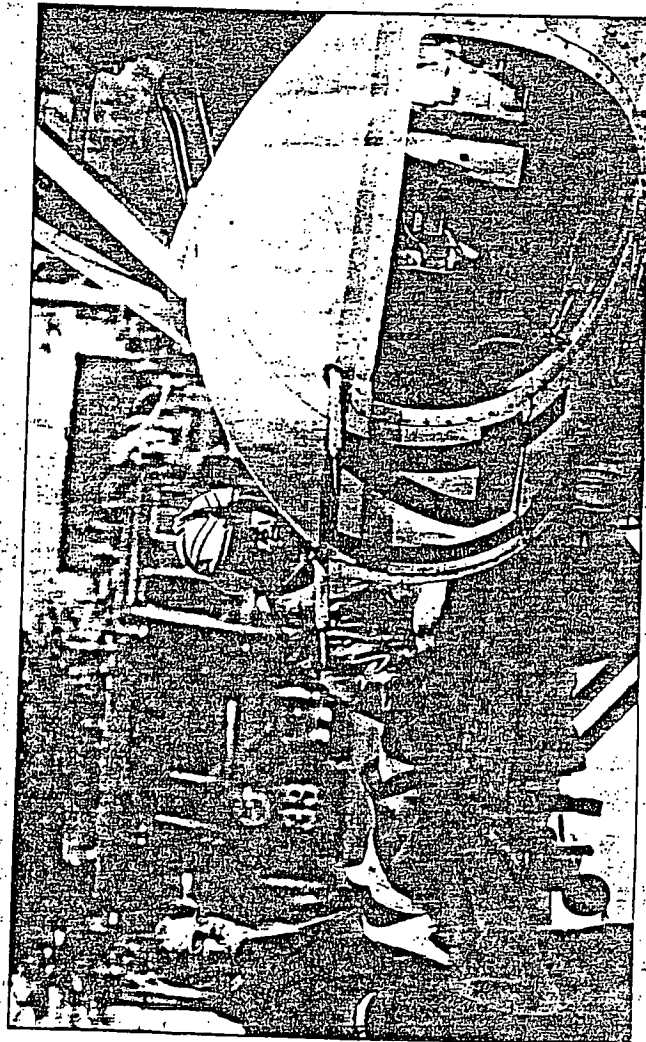
Nipper said four officers were guarding the inmates in the "B Yard" when the trouble broke out. The rest of the prison went on lockdown and other staff rushed over to assist with quelling the uprising, Nipper said.

There was no physical damage to the prison during the riot, Nipper said.

See RIOT on A4



GENE BRECKNER/Valley Press photos
INMATES INJURED — An inmate from California State Prison Los Angeles County in Lancaster is transported to a waiting helicopter following a riot in the prison yard. Above, an ambulance carrying an injured inmate leaves the prison bound for a nearby helicopter.



Living's different as prison neighbor

By JARNISE JOHNSON
and JANA TREECE
Valley Press Staff Writers

LANCASTER — On a quiet morning in a small single-family-home neighborhood on the far west side of Lancaster, it's not uncommon for residents to hear yelling — "down, down, down, down" — from correctional officers over the loudspeakers of the California State Prison Los Angeles County.

"It was a little unsettling the first time I heard it," said resident Michael Bitton, who knew the prison was there when his family moved in.

Those in the neighborhood, Bitton added, "jokingly" call their westside neighborhood "Prison View Estates."

Bitton's neighborhood is the closest housing area to the prison, across 60th Street West and between avenues I and J. Also near-

by is the Westside Union High School District's Sundown Elementary School.

Thursday morning was louder and busier than usual in the neighborhood and at the prison, with news helicopters and air rescue copiers buzzing the desert area as more than 300 inmates rioted with the prison's walls.

Bitton, who also teaches at nearby Sundown Elementary, didn't know exactly what was going on when shortly before 11 a.m. the

school called a "Code Blue," which put the school into lockdown.

Many children were on their lunch recess when the Code Blue was broadcast.

"The children did exactly what they were supposed to do," he said of them filing into the classrooms, where the doors were shut and locked. "I was very impressed. It was very organized."

See NEIGHBOR on A4

EX. Exh. D3

A4 Friday, Dec 21, 2001, Antelope Valley Press

RIOT:

Authorities find at least 26 weapons

From A1

The facility remained on lockdown Thursday afternoon while officials tried to determine what sparked the unrest in the 200 by 200-foot yard. Officials said they did not know how long the lockdown would last.

Although previous riots at the prison were sparked by racial tension, a corrections official said race doesn't appear to have instigated this incident.

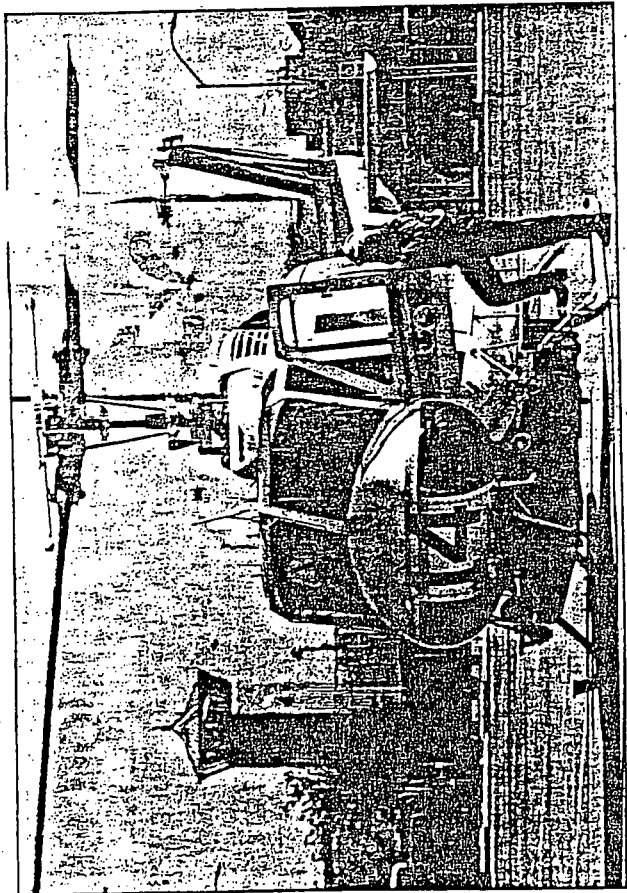
"It started with some white inmates," said Jerry Thornton, a spokeswoman for the California Department of Corrections. "Then some Hispanic inmates attacked black inmates, and the whites jumped into that and it escalated from there."

Three of the seriously injured inmates were airlifted to hospitals, while two more were transported by ambulance. All were critically injured with puncture wounds, but had been stabilized by Thursday afternoon, Thornton said. At least one inmate had a collapsed lung, Thornton said. Prison staff treated 12 other inmates for less serious injuries, mostly lacerations, in an on-site infirmary.

Authorities were scouring the yard Thursday looking for inmate-made weapons. By 3:30 p.m., they had found at least 26 weapons. Four had been thrown down a sewer drain.

"That's a lot," Thornton said. "It's scary to think that that many have weapons on them."

The B Yard, where the riot oc-



INJURED INMATE — A Los Angeles County Fire Department helicopter prepares to lift off from the parking lot of California State Prison Los Angeles County in Lancaster with an injured inmate from a prison riot.

GENE BRECKNER/Valley Press

all that unusual — we do those at all of our facilities from time to time — but the state of emergency was a little unusual."

The B Yard is one of the four yards allocated to Level Four inmates, the highest level of inmate classification reserved for offenders convicted of crimes such as murder, rape and robbery. Another area of the prison — separated from the Level Four yards — houses minimum security prisoners.

In February, guards in B Yard noticed inmates segregating themselves by race in the yard and ordered the prisoners to lie down. The guards then searched the inmates and returned them to their cells and combined the yard for weapons.

Since it opened in 1993, the security level of the inmates has increased. The prison started as a 2,200-bed medium-security facility with some maximum-security prisoners, to a 4,200-bed entirely maximum-security facility surrounded by an electric fence that emits deadly force.

The current population of more than 4,000 inmates puts the prison at 185% of its designed capacity.

Under normal lockdown conditions, inmates are fed in their cells and not allowed into the yard areas. They are usually allowed normal visits and showers, however.

NEIGHBOR: Residents say they feel secure in area

From A1

The school lockdown lasted about 10 minutes, he said.

Neither Westside Union Superintendent Allan Sack nor the school principal could be reached for further comment Thursday about the school's emergency procedures.

Despite the largest riot in the Lancaster prison's eight-year history, Bitton said he doesn't feel unsafe living near the prison and he wouldn't move.

"I've never heard of anyone breaking out," he said. "They keep those who are supposed to be in inside and those who aren't outside."

Several residents in the neighborhood, Bitton said, are correctional officers, who, probably like him, chose to live close to where they work.

In fact, Eliana Sherve, a resident who lives in the 4400 block of 62nd Street West, less than a mile away from the prison, said she feels especially safe because there are so many correctional officers who live in the same housing tract.

Sherve has lived in her home for the past 10 years and recalled at least one escape just after the prison opened. She thinks she may have laid eyes on the escapees at one point, but she's not sure.

Even then, she said, she didn't

believe her safety would be compromised. She thinks they were probably looking for a car to steal so they could get out of the immediate area.

She suspects most prisoners know that correctional officers live close by and would most likely head in another direction if they were able to make it past the gates.

Richard McIntosh, who lives off Avenue J-2, said he has never felt unsafe in his home, despite its proximity to the prison.

"I feel safe," he said. "I didn't even know they had a riot over there this morning."

Jesse Alvarado, owner of J and R Machine Works, lives and works on his property at 45420½ 60th St. West, an area with much more space around it than the housing tract where McIntosh and Sherve live.

Alvarado, who has lived in the area for 10 years, is confident the area is safe.

"I feel safer. If anything goes on there's a million cops right there," Alvarado said.

While his confidence in the area's safety is fairly high today, he wasn't always so self-assured.

"I know when I first moved out here, I was a little scared," Alvarado said. "But not anymore."

Infant found in crash wreckage

women who was killed in a passenger vehicle in the crash may have had the child with her.

The infant is believed to be son of the driver or registered owner of a minivan destroyed in the crash and ensuing inferno.

All four occupants of the minivan were killed, California Highway Patrol Lt. Erik Knudsen said Thursday.

SACRAMENTO (AP) — Authorities have found the remains of a 5-month-old infant who is now confirmed as the fifth victim in a fatal big-rig crash south of Sacramento.

The fiery crash injured two others and shut down a busy highway for most of Wednesday. Investigators searched most of the day Thursday for the infant's remains after they received late word that a

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Exh. D3

January 11, 2002

Facility B Staff and Inmates

LEVEL IV FACILITY B, POPULATION MANAGEMENT/MOVEMENT POLICY

We have learned that inmate idleness due to UN-RESTRICTED yard and program access is the most significant cause of inmate disruptions and violence within our Level IV Facilities. The majority of violence is perpetrated on our large recreational yards where both programming and non-programming inmates participate. Subsequently, we will establish restricted yard and program access with mandatory work programs for all unassigned and assigned inmates.

Traditionally, Facility B has been plagued with inmates who have proven to be the most dangerous, hostile and poorly socialized segment of our population. There is unification among inmates along racial and gang/disruptive group lines resulting in gang rivalries drug trafficking, and victimization of the weak. Management of this facility is the most difficult problem facing CSP-LAC. The workload of our staff, in comparison to lower classification levels, is greater resulting in soaring employee turnover and staff burnout. On a daily basis, Management and Supervision of this Institution is generally conducted in a crisis mode moving from one incident, disturbance, lockdown, modified program, investigation to the next.

Program expectations such as compliance with work incentive, grooming standards, cell cleanliness, behavioral expectations, and receptiveness to counseling, have become ancient history. Level IV non-programming inmates have squeezed the lifeblood out of our staff and programming inmates. We must use existing policy to hold inmates accountable for their actions, isolate and control non-programming inmates, allow other inmates to effectively program, and provide an incentive to program.

Staff must "raise the bar" and focus on behavior and program expectations. Inmates must program or face rapid, focused, and comprehensive enforcement of disciplinary procedures. Before the inmate ever leaves his cell, he must be held accountable for having his hair cut, his mustache trimmed, his cell cleaned and organized in an orderly fashion, or else face the consequences. When he leaves his cell, he must report to work, participate fully, be on time, be productive, or else face the consequences. All infractions regarding inmates' behavior must be corrected with constant feedback. Those who fail to make sufficient progress regarding behavioral expectations and program requirements, will be isolated and designated as non-programmers.

Exh. D3

Memorandum

Date : July 31, 2002


To : ALL FACILITY B INMATES

Subject: PROGRAM MODIFICATION

This memorandum is to inform all inmates that Facility 'B' remains on a Modified Program as a result of the Stabbing Assault that occurred on July 26, 2002 and the numerous weapons discovered within the Facility.

The current Mod Order will remain in effect, searches will be continued in all housing units. All movement will be under escort.

If you have any questions regarding this memorandum, contact the facility Sergeant.


J. MIDDLETON
FACILITY 'B' LIEUTENANT
CSP-LAC

Memorandum

Date : August 28, 2002

To : All Staff
All Inmates

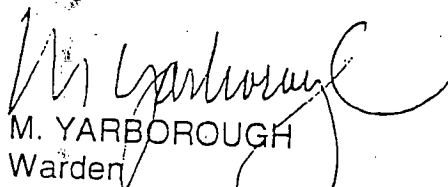
Subject: CALIFORNIA STATE PRISON-LOS ANGELES COUNTY, "STATE OF EMERGENCY"

In conformance with the California Code of Regulations (CCR), Title 15, Section 3383, a "State of Emergency" has been declared for the California State Prison-Los Angeles County (LAC) effective August 28, 2002.

The declaration of a "State of Emergency" is based upon; staff assaults, inmate assaults, and the discovery of deadly weapons. Thorough searches will be completed of all facilities and operations.

In conformance with the CCR, Title 15, Section 3383, all non-essential operations, procedures, services or functions and normal time limits are suspended to control and contain the situation. The current status of the lockdown is as reported on the current Program Status Report LAC-LAC-02-018.

The review of this "State of Emergency" will be conducted daily. You will be kept advised of any further developments.



M. YARBOROUGH


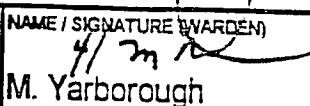
Warden

California State Prison-Los Angeles County

Exh. D3

<input type="checkbox"/> NORMAL PROGRAM <input checked="" type="checkbox"/> MODIFIED PROGRAM <input type="checkbox"/> LOCKDOWN <input checked="" type="checkbox"/> STATE OF EMERGENCY		
<input type="checkbox"/> INITIAL <input checked="" type="checkbox"/> UPDATE <input type="checkbox"/> CLOSURE		
RELATED INFORMATION (CHECK ALL THAT APPLY)		
AFFECTED <input type="checkbox"/> INSTITUTION <input checked="" type="checkbox"/> FACILITY: <u>B</u> <input type="checkbox"/> HOUSING UNIT: _____ <input type="checkbox"/> VOCATION: _____ <input type="checkbox"/> EDUCATION: _____ <input type="checkbox"/> OTHER: _____	INMATES AFFECTED <input checked="" type="checkbox"/> ALL <input type="checkbox"/> BLACK <input type="checkbox"/> WHITE <input type="checkbox"/> HISPANIC <input type="checkbox"/> OTHER <input type="checkbox"/> _____	REASON <input checked="" type="checkbox"/> BATTERY ON STAFF <input type="checkbox"/> DEATH <input type="checkbox"/> RIOT / DISTURBANCE <input type="checkbox"/> GROUPING <input type="checkbox"/> OTHER: _____
MOVEMENT	WORKERS	DAYROOM
<input type="checkbox"/> NORMAL <input type="checkbox"/> ESCORT ALL MOVEMENT <input type="checkbox"/> UNCLOTHED BODY SEARCH PRIOR TO ESCORT <input checked="" type="checkbox"/> CONTROLLED MOVEMENT <input type="checkbox"/> OTHER: _____	<input checked="" type="checkbox"/> CRITICAL WORKERS * SEE BELOW * <input checked="" type="checkbox"/> CULINARY GYM INMATES ONLY <input checked="" type="checkbox"/> CLERKS ONE (1) PER WATCH <input type="checkbox"/> VOCATION/EDUCATION <input type="checkbox"/> CANTEEN <input checked="" type="checkbox"/> CLOTHING ROOM GYM INMATES ONLY <input type="checkbox"/> RESTRICTED WORK PROGRAM <input type="checkbox"/> PORTERS <input type="checkbox"/> NO INMATE WORKERS	<input type="checkbox"/> NORMAL GYM INMATES <input checked="" type="checkbox"/> NO DAYROOM ACTIVITIES <input type="checkbox"/> MODIFIED: _____ RECREATION <input type="checkbox"/> NORMAL <input checked="" type="checkbox"/> NO RECREATIONAL ACTIVITIES <input type="checkbox"/> MODIFIED: _____
FEEDING	SHOWERS	CANTEEN
<input checked="" type="checkbox"/> NORMAL HOUSING UNIT 3, 4, AND 5 <input checked="" type="checkbox"/> CELL FEEDING HOUSING UNIT 2 <input checked="" type="checkbox"/> CONTROLLED FEEDING IN DINING ROOM <input checked="" type="checkbox"/> GYM <input type="checkbox"/> DORM POD AT A TIME <input type="checkbox"/> TIER AT A TIME <input type="checkbox"/> HOUSING UNIT SECTION AT A TIME <input type="checkbox"/> SACK MEAL BREAKFAST <input type="checkbox"/> SACK MEAL LUNCH <input type="checkbox"/> SACK MEAL DINNER	<input type="checkbox"/> NORMAL <input checked="" type="checkbox"/> CONTROLLED MOVEMENT <input type="checkbox"/> ONE INMATE PER SHOWER - OWN TIER <input checked="" type="checkbox"/> CELL PARTNERS TOGETHER - OWN TIER <input type="checkbox"/> DORM SHOWERING BY GROUP <input type="checkbox"/> CRITICAL WORKERS ONLY <input type="checkbox"/> NO SHOWERS	<input type="checkbox"/> NORMAL <input checked="" type="checkbox"/> NO CANTEEN <input checked="" type="checkbox"/> MODIFIED: B1 AND B2 AD-SEG PACKAGES <input type="checkbox"/> NORMAL <input checked="" type="checkbox"/> NO PACKAGES <input checked="" type="checkbox"/> MODIFIED: B1 AND B2 AD-SEG
DUCATS	MEDICAL	PHONE CALLS
<input type="checkbox"/> ALL DUCATS HONORED <input type="checkbox"/> MEDICAL DUCATS ONLY <input type="checkbox"/> CLASSIFICATION DUCATS <input type="checkbox"/> PRIORITY DUCATS ONLY	<input checked="" type="checkbox"/> NORMAL MEDICAL PROGRAM <input type="checkbox"/> PRIORITY DUCATS ONLY <input type="checkbox"/> MTA CONDUCT ROUNDS IN UNITS <input type="checkbox"/> INMATES ESCORTED TO SICK CALL <input type="checkbox"/> EMERGENCY MEDICAL ONLY <input type="checkbox"/> OTHER: _____	<input type="checkbox"/> NORMAL <input checked="" type="checkbox"/> NO PHONE CALLS <input checked="" type="checkbox"/> MODIFIED: GYM INMATES ONLY
VISITING	LEGAL LIBRARY	RELIGIOUS SERVICES
<input type="checkbox"/> NORMAL VISITING 2, 3, 4, 5 & Gym <input type="checkbox"/> NON-CONTACT ONLY <input type="checkbox"/> NO VISITING <input type="checkbox"/> OTHER: _____	<input type="checkbox"/> NORMAL <input checked="" type="checkbox"/> APPROVED COURT DEADLINES	<input type="checkbox"/> NORMAL <input checked="" type="checkbox"/> NO RELIGIOUS SERVICES <input type="checkbox"/> MODIFIED: _____

MARKS: Due to the serious incident involving Battery on a Peace Officer, Facility B will remain on Modified Program. threat assessment was conducted and was determined to be an isolated incident at this time. Sixteen (16) Facility Gym Inmates have been classified and cleared for food handling to work in culinary. Controlled movements are to be escorted without handcuffs. Chairman and Vice- Chairman of the MAC shall have access to housing units 2,3,4,5, and Gym during their assigned work hours. Building MAC Representatives will be released within their own housing unit after the completion of the morning meal.

PREPARED BY:  R. Downs Facility 'B' Captain	DATE <u>4/13/02</u>	NAME / SIGNATURE (WARDEN)  M. Yarborough Warden	DATE 11/13/02
--	------------------------	--	------------------

Exh. D3



RECEIPT FOR COPIES OF HEALTH INFORMATIONINMATE NAME: Leovardo SalcedaCDC#: JA0933**COPY**DATE COPIED: 6/23/06 HOUSING: B3 260LCHART REVIEWED: YES NO RECEIVED COPIES ONLY/NO REVIEW: YES NO

I have received the following copies from my health record that I requested.

# of pages	SECTION	DATE(S) of REPORT(S)
	INTAKE	
	Medication Administration Record	
	Physicians Orders	
39	Drs. Progress Notes	8/9/02 thru 6/14/06
	PPD Mantoux/TB	
6	Lab/Pathology	8/9/02 thru 9/13/05
1	Radiology	9/1/04
11	Consultations/Procedures/Treatments	10/16/03 thru 9/30/05
	Miscellaneous	
	Dental	
	Psychiatric	
27	Inpatient	2/24/04 3/2/05 GI Bleed/Colonoscopy
	Chronos	

Total Number of Copies 84 @ 10 cents per copy = \$ 8.40Leovardo Salceda
Inmate Signature6/23/06
Date Rec'd

Exhibit H

DATE	TIME	
8/9/02		S: 32 y/o ♂ 90 rectal bleeding
11/1		O: 2 wks ago started 2 abdominal pain shortly p eating. That has resolved, now
120/75	-P/P	I'm having bloody diarrhea x 2-3
80 - P		days. Lips are dry. I'm looks slightly
97 - T		pale. Guaiac (+), Tilt (+)
		A:
		P: send to Intensive
104/72		8-9-02 12-30.
94		S: No rectal bleeding for first time today
		very little blood. Hard diarrhea x 6 days
94/60	P/P	no nausea (+) no vomiting. Abt. pain (+)
10	P	O: appetite not in dysphoria. Not anemic
		Hemr xxx, 80v 8m hyp CRAS
		Abt. 87p no, wt,
		Rectal no external hemorrhoids.
		A: Diarrhea
		Rectal bleeding
		P: see order
		Hemr

COPY

INSTITUTION	PHYSICIAN	ROOM NO.	CDC NUMBER, NAME (LAST, FIRST, MI)
			Salcedo, L J 90 933

PHYSICIAN'S PROGRESS NOTES

CDC 7230 (7/90)
STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

DATE IN 8/21/02	TIME IN 1705	INSTITUTION CSP/UA	EMERGENCY ROOM #	BROUGHT BY: <input checked="" type="checkbox"/> SELF <input checked="" type="checkbox"/> C.O. <input type="checkbox"/> AMBULANCE <input type="checkbox"/> OTHER
PATIENT COMPLAINT / REASON FOR VISIT Return from H/DH				
DATE OF LAST TETANUS	ALLERGIES (CHECK BOX OR SPECIFY) <input checked="" type="checkbox"/> NONE	EMERGENCY ROOM PHYSICIAN D. Cassini	TIME PHYSICIAN NOTIFIED here	TIME PHYSICIAN ARRIVED
MED HX / TIME OF LAST DOSE				

COPY

NURSING ASSESSMENT	NURSE'S SIGNATURE	INITIALS
1705 - Returned from H/DH VSS, afebrile, D. Cassini in house - I/M evaluated immediately		
1715 - Orders received & noted		
1730 - I/M RTC		

VITAL SIGNS						MEDICATION			
TIME	BLOOD PRESSURE	PULSE	RESPIRATORY	TEMPERATURE	INITIALS	MEDICATION / IV / RX	SITE	TIME	GIVEN BY
1706	113/73	81	20	98	18				

PHYSICIAN NOTES & ORDERS (History, Physical Exam, Impression, Treatment, Instructions)

See above

DISPOSITION OF PATIENT	NOTIFICATION
<input checked="" type="checkbox"/> RELEASED <input type="checkbox"/> TRANSFERRED TO _____ <input type="checkbox"/> ADMITTED TO _____ <input type="checkbox"/> EXPIRED MORTUARY _____	<input type="checkbox"/> CORONER CORONER'S # _____ <input checked="" type="checkbox"/> CUSTODY <input type="checkbox"/> WATCH COMMANDER
CONDITION OF PATIENT ON DISCHARGE AA0X3, VSS, ambulatory REFERRED TO _____	CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH Salceda, Leovardo J-90933
PHYSICIAN SIGNATURE D. Cassini, MD DATE 8-21-02	
CHARGE INSTRUCTIONS GIVEN? <input type="checkbox"/> YES <input type="checkbox"/> NO DATE OUT 8-21-02 TIME OUT 1730 INITIALS 18	
DIST: ORIG - PATIENT'S HEALTH RECORD YELLOW - EMERGENCY ROOM PINK - PHARMACY	

EMERGENCY ROOM
ADMISSION

8-20-69 B5 235

DATE	TIME	PROBLEM #	
1 27-03	0300		<p>IM Awaken, To RCMC for medical ^{copy} colonoscopy.</p> <p>NPO since mid-night. ^{W.J. Hazzard, RN} HCSD/CVSP</p>
10-27-03			<p>Returned from RCMC</p> <p>SP Colonoscopy - TX</p> <p>per Dr Ang <u>Hazzard</u></p>

INSTITUTION

C.VSP

[illegible]

B3-150^L

CDC NUMBER, NAME (LAST, FIRST, MI)

SALCEDA, LEONARDO

J-90933

08/20/69

OUTPATIENT INTERDISCIPLINARY PROGRESS NOTES

DATE TIME

COPY

DATE 2/24/04 10/63-363

TIME 0805 63 R 18

SA 02 986 WEIGHT 154 ALLERGY Y N

M. ROGELIN, MTA
CVSP/HCSOM. ROGELIN, MTA
CVSP/HCSO

40 Chron's Disease

2 hr 1-4 - Jon Rodman to
0837 20 min by - SEE
1A & PR. Ang, M.D.
Staff Physician / CVSP2/24/04 1030 Pt. admitted to CI-181 from B3 & Dx of
GI Bleeding H/O Chron's Disease. Refer to 7202
for further information. M. KolanINSTITUTION
CVSPPHYSICIAN
ANGROOM NO.
757

CDC NUMBER, NAME (LAST, FIRST, MI)

M. Kolan, RN
HCSO / CVSP

B31502

SA. CLEA, LEOVARDO

J-90433

03/20/07

PHYSICIAN'S PROGRESS NOTES

DATE	TIME	BP	T
4/1/04	11/72	368	
AE O2	P	D	R
SA O2	986	WEIGHT	143
		ALLERGY	Y (N) A/C
4/1/04	1100	S. Chron dis in Feb - in	
		Infermery 12 days	
		recurrence of symp tons - cramps, rectal	
		bleeding + loose stool	
		Has lost 10 #s	
		Q. mild tenderness abd	
		A. Chron dis	
		P. Will confer w Dr Ang about steroid	
		+ diet supplement	
DATE	B.	T	
TIME	F	R	
A O2	WEIGHT	ALLERGY	Y N

COPY

M. ROSS
CVSP/HCSO

R. Soholt, MD
HCSO/CVSP

INSTITUTION	HOUSING UNIT	CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH
CVSP	B3 260L	Salcedo, Leonardo
INTERDISCIPLINARY PROGRESS NOTES		090933
CDC 7230 (Rev 04/03) STATE OF CALIFORNIA		8-20-09
DEPARTMENT OF CORRECTIONS		

DATE	TIME	NAME AND CDC NUMBER
6/4/04	0830	SALCEDA, LEOVARDO J90933
<p>S: This patient suffers from Crohn's disease. He had finished his medication, stopped it, did not have it renewed, and now for four days he is having diarrhea. He cannot hold it when he has to go to the bathroom, and several times he has soiled his clothes. He states that there is just a little bit of blood in his stool, but he has had to go between six and nine times today.</p> <p>O: Crohn's disease a flare up of it.</p> <p>A: The patient will have a lay-in for one week, Sulfasalazine 1000 mg twice a day orally, and Flagyl 250 mg twice a day orally for ten days.</p> <p>E: It has been explained the nature of his disease, the reason he has to take the medication not just once but continuously and he apparently understood.</p>		
<p>d: 6/04/04 t: 7/06/04 as</p> <p>Riva Robinson, M.D.</p>		

COPY

R. ROBINSON, M.D.
HCSD/CVSPR. ROBINSON, M.D.
HCSD/CVSP

INSTITUTION	HOUSING UNIT	CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH
USP	B 32604	Salceda, Leovardo J09033 8/20/09

INTERDISCIPLINARY PROGRESS NOTES

DATE	TIME	
9/1/04	1415	Returns from RCRMC medical report

COPY
WILLIAMS, RNC
HCSD/CVSP

DATE	TIME	BT	R	SA 02	WEIGHT	ALLERGY	Y	N
9/4/04	0755	18	18	98	155			

T Holmes, MTA
HCSD/CVSP

9-24-04 s. no abdominal cramping, no blood in stool, no diarrhea. Toes crack & no tenderness in abdomen, toes nails in great toes eaten away.

4 Tinea pedis, Tinea unguium
P. miconazole cream tid x 3 weeks
Zoltramin liquid daily x 30 days
E. Instructed back to work

R. ROBINSON, M.D.
HCSD / CVSP

DATE	TIME	BT	R	SA 02	WEIGHT	ALLERGY	Y	N
9/27/04	1325							

1pm on medical transport to RCRMC

S. Nunley, MTA
HCSD/CVSP

9/27/04 1536 Re-connet for RCRMC Fol. GI bleed, medication sulfasalazine recommended

A. HESTER, RN
HCSD/CVSP

INSTITUTION	HOUSING UNIT
CVSP	B3 260L

CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH

Salcedo, Leonardo
J90933

INTERDISCIPLINARY PROGRESS NOTES

DATE	TIME		
12-20-04	0420	1/m on medical transport	COPY
SA 02	WEIGHT	ALLERGY Y N	
2-20-04	1500	Returned from RERM C F/U GI Blood	
DATE 2/17/05	124/80	36.1	
TIME 13:34	43	R 18	
SA 02	97	WEIGHT 158	ALLERGY Y N
2/17/05	1400	0 c/o B reading per rectum	
		<p>DIAGNOSIS</p> <p>MR</p> <p>ANG</p>	
INSTITUTION	CUSP	HOUSING UNIT	B3-260L
		<p>CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH</p> <p>Salcedo, Leovardo</p> <p>J 90933</p> <p>8-20-69</p>	

INTERDISCIPLINARY PROGRESS NOTES

DATE	TIME	NAME AND CDC NUMBER
02/17/05	1359	SALCEDA, LEOVARDO
<div><div><div>COPY</div><div>9093</div></div><p>S: This patient is being seen here at Central Health for bleeding per rectum. Patient is a Hispanic guy with a known diagnosis of Crohn's disease. He has been seen at RCRMC multiple times with multiple workups consisting of a colonoscopy and x-rays consisting of small bowel follow through which were all negative. He had been asymptomatic for quite sometime and his Sulfasalazine medication was discontinued in September. He had been doing fine then until about three days prior to the consultation when he started having watery stools of about three times daily, and started to notice maroon colored blood yesterday, and becoming fresh blood this morning. He still has about three bowels daily. He denies any abdominal pain, denies any dizziness, no vomiting, and no weakness.</p><p>O: Vital signs are stable with a blood pressure of 122/80 and pulse rate of 63. Abdomen is soft, non-tender, negative organomegaly, normoactive bowel sound. Rectal exam done shows a small amount of fresh blood on tactating finger.</p><p>A: Acute exacerbation of Crohn's disease.</p><p>P: We'll start patient again on Azulfidine, Prednisone and Flagyl. We'll schedule patient for follow-up at Central Health tomorrow.</p><p>E: Discussed with patient about his condition. Patient verbalized understanding. He was initially advised admission however patient declined at present time and he stated that he would come back anytime to Central Health if his condition worsens this afternoon or tonight.</p><p>d: 02/17/05 to 02/18/05 as</p><p>R Ang, Jr. M.D.</p></div>		
INSTITUTION	HOUSING UNIT	CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH

INTERDISCIPLINARY PROGRESS NOTES

DATE	TIME
3/1/05	

DATE	TIME	NAME AND CDC NUMBER
03/02/05	1033	SALCEDA, LEONARDO

COPY
J90933

S: This patient has Crohn's disease and he has an acute exacerbation of approximately six to eight stools a day and he has blood in his stools also.

O:

A: *see infirmary entry*

P: The patient is going to be admitted to the infirmary for further care.

E:

d: 03/02/05 t: 03/02/05 as

[Signature]
Riva Robinson, M.D.

4/18/05 1445 s: 35 y/o ♂ to clinic c/o hx of Crohn's disease, c
bloody diarrhea X 4 days c ↑ frequency.

P: refer to M.D. tomorrow am

DATE 4/19/05 B. 1/10 T 369

M. LAFEVER MTA

TE 0755 I 60 R 1/10

SA 02 587 WEIGHT 149 ALLERGY Y (N)

M. BOGGELIN, MTA
CVSP/HCSO

4/19/05 s: 3 bloody diarrheas several days
o. losing weight, no tenderness in abdomen
A chronic disease P. 1-multiple vitamin daily
C. lulfagelazine 1.5 gm bid x 30 days
Flagil 500mg. tid x 1-week
Prednisone 30 mg bid x 1-week po
Resource 2 can daily po
Miconazole cream tid x 1-week

INSTITUTION

HOUSING UNIT

CDC NUMBER, NAME (LAST, FIRST, MI AND DATE OF BIRTH)
R. ROBINSON, M.D.
HCSO / CVSP

INTERDISCIPLINARY PROGRESS NOTES

J 90933
SALCEDA, LEONARDO

D.O.B. 8/20/69

COPY

NGS: Clear to auscultation and percussion.

ABDOMEN: Soft, not really tender to touch, no organomegaly and no masses are felt.
Bowel sounds are slightly hyperactive.

GU: Normal.

RECTAL: Revealed no masses, no mucus or hemorrhoids.

BACK: *normal*

EXTREMITIES: No edema and no cyanosis.

NEUROLOGICAL: Within normal limits with no deficit of any kind.

DIAGNOSIS: Crohn's disease with some GI bleeding.

PLAN: Admit him to the infirmary and to keep him from having any dairy products and to give him Sulfasalazine at the present time Flagyl and also Prednisone.

END OF REPORT
Riva Robinson, M.D.
nc

TYPE OF REPORT (Check one)		SIGNATURE OF PROVIDER <i>Riva Robinson</i>	
<input type="checkbox"/> HISTORY AND PHYSICAL EXAM CDC 7206	<input type="checkbox"/> DISCHARGE SUMMARY CDC 7218	PATIENT'S NAME (LAST, FIRST, MI) SALCEDA, LEOVARDO	
<input checked="" type="checkbox"/> PROGRESS NOTE CDC 7230	<input type="checkbox"/> DEATH REPORT CDC 7229	CDC NUMBER J90933	DATE DICTATED 03/03/05
<input type="checkbox"/> CONSULTATION REPORT CDC 7243	<input type="checkbox"/> TRANSFER SUMMARY CDC 7295	DATE TYPED 03/03/05	
<input type="checkbox"/> OPERATION REPORT CDC 7205	<input type="checkbox"/> OTHER (Specify)	INSTITUTION CHUCKAWALLA VALLEY STATE PRISON	
		UNIT / WING / BED #	HOSPITAL / CENTER CVSP - INFIRMARY

HEALTH RECORD REPORT

I/M D.O.B.: 08/20/69

DATE OF ADMISSION: 03/02/05

COPY

CHIEF COMPLAINT: Frequent stools with small amounts of blood.

HISTORY OF PRESENT ILLNESS: This is a 35-year-old Hispanic male who has a history of Crohn's disease. He has been in the infirmary previously with similar symptoms. He has had about eight stools on the previous to being admitted. He also complained of cramping especially of the time of his bowel movements. He was then admitted because of the past history. He takes Sulfasalazine as a general rule and whenever he has exacerbations he was given Prednisone also.

PAST HISTORY: Only Crohn's disease

ALLERGIES: NKDA

FAMILY HISTORY: Not contributory.

SOCIAL HISTORY: The patient states that he used alcohol on the streets but denies illegal drugs or tobacco. He worked as a construction worker and he is single.

REVIEW OF SYSTEMS: Essentially negative excepting for the cramping and the bloody stools. He has a good appetite, and he does not have any other complaints.

PHYSICAL EXAMINATION

GENERAL: The patient is well developed, well nourished. He appears to be somewhat uncomfortable but otherwise normal.

VITAL SIGNS: Temperature 36.5, pulse 66, respiration 18, blood pressure 114/63.

SKIN: Good skin turgor, he is not dehydrated.

HEENT: Normocephalic. PERRLA.

NECK: Supple with full ROM.

HEART: Normal sinus rate and rhythm.

TYPE OF REPORT (Check one)		SIGNATURE OF PROVIDER <i>R. Robinson</i>	
<input checked="" type="checkbox"/> HISTORY AND PHYSICAL EXAM CDC 7206	<input type="checkbox"/> DISCHARGE SUMMARY CDC 7218	PATIENT'S NAME (LAST, FIRST, MI) SALCEDA, LEONARDO	
<input type="checkbox"/> PROGRESS NOTE CDC 7230	<input type="checkbox"/> DEATH REPORT CDC 7229	CDC NUMBER J90933	DATE DICTATED 03/03/05
<input type="checkbox"/> CONSULTATION REPORT CDC 7243	<input type="checkbox"/> TRANSFER SUMMARY CDC 7295	INSTITUTION CHUCKAWALLA VALLEY STATE PRISON	
<input type="checkbox"/> OPERATION REPORT CDC 7205	<input type="checkbox"/> OTHER (Specify)	UNIT / WING / BED #	HOSPITAL / CENTER CVSP - INFIRMARY

HEALTH RECORD REPORT

DATE	TIME
------	------

DATE	TIME	NAME AND CDC NUMBER
04/19/05	0947	SALCEDA, LEOVARDO

COPY

S: This patient has long history of Crohn's disease, he was in the infirmary in early March, he did very well, since then he has had no problems, but within the last several days he has started to have diarrhea, now developed blood in his stools, and already today he has had three bowel movements. He has already lost some weight.

O: abdominal discomfort

~~chronic~~ A: chronic disease

P: start treatment

E: Dismissed ~~chronic~~ Crohn's disease

d: 04/19/05 t: 05/11/05 as

Riva Robinson, M.D.

DATE 4/19/05 BP 107/60 T 36.9
 TIME 0842 P 55 R 110
 SA O2 97% WEIGHT 148 ALLERGY Y

M. ROGGELIN, MTA
 CVSP/HCSO

1/2/05 SD 40 T BOWEL movement. 4/1/05
 10/05 CROHN'S DISEASE

R. Ang, M.D.
 Staff Physician/CVSP

INSTITUTION WSP HOUSING UNIT B3 2602

CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH

Salceda, Leonardo

J 90933

8-20-69

INTERDISCIPLINARY PROGRESS NOTES

[illegible]

DATE TIME

COPY

DATE 6/16/05 1006

TIME 0925 54 R 14

SA 02 98 WEIGHT 154 ALLERGY Y (N)

J. O'FALLON M.T.A.
HCSD/CVSP

6/16/05 1006 S - Flu Chron's and improving. Having problem
 w/ straining. (+) mucus & old blood. Ø BRBPR.
 Ø F/C. Ø Pain, Ø cramps. No HA and fungus
 O - VSS, Afebrile on feet.
 Abdo - S/NT 1(+) B3
 EXT - Ø C/C/C
 Ws - RR, Ø (w)
 Feet - toe nail deformed, thickened, discolored
 (R) Toe.

A/P ① Chron's disease - cont. to improve, cont
 prednisone x 7d and ↓ dosage. Add
 Fibers to prevent irritation. Cont- Sulfasalazine
 ② Tinea/onychomycosis - Lotrimin x 30d
 E - Rxment plan Dlx pt and understood/agreed

[Signature]
 D. Linn

INSTITUTION

HOUSING UNIT

B3 2600L

CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH

Salceda, Leonardo

J90933

8-20-69

INTERDISCIPLINARY PROGRESS NOTES

DATE	TIME	
8/17/05	0739	Flu Chron's Disease
0713	64	R 18
SA 02	95°	WEIGHT 150# ALLERGY Y N
8/17/05	5)	Flu Chron's Disease
0713	64	STOMACH LARG CRAM 4-5X
		daily
		diarrhea
		R. Ang, M.D. Staff Physician/CVSP

DATE	TIME	NAME AND CDC NUMBER
------	------	---------------------

08/17/05	0739	SALCEDA, LEONARDO J90933
----------	------	--------------------------

- S: The patient is in today for follow-up of his Crohn's disease. The patient stated he is having diarrhea four to five times daily and he ran out of his medication.
- O: The patient's vital signs are stable. HEENT is unremarkable. Palpebral conjunctiva is pinkish. Abdomen is soft, flat, non-tender, normal active bowel sounds.
- A: History of Crohn's disease with flare up.
- P: Refill his MVI, Sulfasalazine, and we'll start patient again on Prednisone and Flagyl, schedule patient for CBC and lay-in times 3 days.
- E: The patient's condition was discussed with him and he verbalized understanding and agreed with the present treatment plan.

d: 08/17/05 t: 09/01/05 nc

R. Ang, Jr., M.D.

8/22/05	113	CBC done 8/17/05 - normal
INSTITUTION	HOUSING UNIT	
WSP	B3 260L	
		R. Ang, M.D. Staff Physician/CVSP

INTERDISCIPLINARY PROGRESS NOTES

CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH

Salceda, Leonardo

J90933

8/20/09

DATE TIME

COPY

DATE 8/29/05 B. 11:40 T. 35.9°C

TIME 04:00 L. 63 R. 12

SA O2 100% WEIGHT 152 ALLERGY YES

8-29-05

Crohn's disease dictated

R. ROBINSON, M.D.
HOSD / CVSP

DATE	TIME	NAME AND CDC NUMBER
08/29/05	1010	SALCEDA, LEOVARDO J90933

S: This patient has Crohn's disease and at the present time he is having a flare-up there is not much cramping however he does have some bleeding every time he has a bowel movement.

O: On examination he does not have any external hemorrhoids however having a bowel movement he does have some blood.

A: Crohn's disease with a flare-up at the present time.

P: The patient will be getting Metamucil one package daily for 15 days, Prednisone 20 mg daily in the morning for seven days, a follow-up in one week to see the results and if he needs more Prednisone, and a lay-in for three days. The patient has a chrono approved because he is unable to hold his stool he is incontinent for stool and this gives him the opportunity to go to the bathroom when he needs to, the chrono is issued but he does not have a copy so we are requesting that a copy be given to him.

E: Discussed the disease extensively + the Rx

d: 08/29/05 t: 09/26/05 as

Riva Robinson, M.D.

INSTITUTION

CVSP

HOUSING UNIT

B3-2604

CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH

SALCEDA

J90933

8-20/09

INTERDISCIPLINARY PROGRESS NOTES

DATE TIME

COPY

DATE 6/14/06

TIME 0713 P

SA 02

35%

WEIGHT 1/8

ALLERGY

N

Ph re: Chronic Disease

and review of med

R. Espinoza, MTA
HCSD/CVSP

06/14/06

0858

S: Ph Chronic Disease - PH full vis

Crown is worn 2" to 4" and 4" of
crown missing 0.5 yr, + wt loss.

O: Ben - meat

Hfnt - nt, hy - ch, head vs

abt - sup

A: dx Chronic Disease 2 02 missing

C: Colonoscopy

perforated Pilonus f Playoff

Ph 2 week

E of value understanding

Jr

D. Dunn, M.D.
HCSD/CVSP

INSTITUTION

HOUSING UNIT

B3-2600

CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH

Salceda, L

J90933

DOB 8/20/49

INTERDISCIPLINARY PROGRESS NOTES

STATE OF CALIFORNIA
MEDICAL/DENTAL LAY-IN ORDER

DEPARTMENT OF CORRECTIONS

INMATE'S NAME <i>Salceda, Leo</i>	CDC NUMBER <i>J90933</i>	HOUSING <i>B3/260L</i>
ABOVE SUBJECT MUST BE CONFINED TO BED EXCEPT FOR MEALS, MEDICATION, AND SICK CALL		
LAY-IN NUMBER	NO OF DAYS LAY-IN <i>Three (3)</i>	TIME AND DATE OF EXPIRATION OF LAY-IN <i>090105 02359 Hr</i>
SIGNATURE OF M.D., R.N., M.T.A., D.D.S., R.D.A. <i>Thomas MTA CVSP</i>		DATE <i>082905</i>
CC: WORK ASSIGNMENT SUPERVISOR HOUSING UNIT		

CDC 7257 (CVSP REV 01/02)

STATE OF CALIFORNIA
MEDICAL/DENTAL LAY-IN ORDER

DEPARTMENT OF CORRECTIONS

INMATE'S NAME <i>Salceda</i>	CDC NUMBER <i>J90933</i>	HOUSING <i>B3260L</i>
ABOVE SUBJECT MUST BE CONFINED TO BED EXCEPT FOR MEALS, MEDICATION, AND SICK CALL		
LAY-IN NUMBER <i>—</i>	NO OF DAYS LAY-IN <i>Three Days (3)</i>	TIME AND DATE OF EXPIRATION OF LAY-IN <i>Time 1642 Date 0606 235</i>
SIGNATURE OF M.D., R.N., M.T.A., D.D.S., R.D.A. <i>R. Esparza MTA</i>		DATE <i>6/14/06</i>
CC: WORK ASSIGNMENT SUPERVISOR HOUSING UNIT		

CDC 7257 (CVSP REV 01/02)

STATE OF CALIFORNIA
MEDICAL/DENTAL LAY-IN ORDER

DEPARTMENT OF CORRECTIONS

INMATE'S NAME <i>Salceda, Leonardo</i>	CDC NUMBER <i>J90933</i>	HOUSING <i>B3 260L</i>
ABOVE SUBJECT MUST BE CONFINED TO BED EXCEPT FOR MEALS, MEDICATION, AND SICK CALL		
LAY-IN NUMBER	NO OF DAYS LAY-IN <i>(2) Two days</i>	TIME AND DATE OF EXPIRATION OF LAY-IN <i>01-24-07 2359</i>
SIGNATURE OF M.D., R.N., M.T.A., D.D.S., R.D.A. <i>M. Patis LUN</i>		DATE <i>01-23-07</i>
CC: WORK ASSIGNMENT SUPERVISOR HOUSING UNIT		

CDC 7257 (CVSP REV 01/02)

Name: SALCEDA CDC#: J90933 Dorm/Bed: B3-260L Date: 28JUN06
 Report To: B - MEDICAL Time: 0845 Reason: MEDICAL
 Time Arrived: _____ Time Departed: _____ Location Staff Signature: _____

This Inmate **MUST** report at the designated time and place. Failure to do so must be reported to their Sergeant's office immediately as to the cause and appropriate action as necessary.

**GREEN ID REQUIRED
APPROVED**

I/M ASSIGNMENT LT. / Alt. WATCH COMMANDER 3/W

DUCAT / PASS

Name: SALCEDA CDC#: J90933 Dorm/Bed: B3-260L Date: 05SEP06
 Report To: CENTRAL HEALTH Time: 0730 Reason: LAB
 Time Arrived: _____ Time Departed: _____ Location Staff Signature: _____

This Inmate **MUST** report at the designated time and place. Failure to do so must be reported to their Sergeant's office immediately as to the cause and appropriate action as necessary.

I/M ASSIGNMENT LT. / Alt. WATCH COMMANDER 3/W

DUCAT / PASS

Name: SALCEDA CDC#: J90933 Dorm/Bed: B3-260L Date: 05SEP06
 Report To: CENTRAL HEALTH Time: 0700 Reason: MEDICAL
 Time Arrived: _____ Time Departed: _____ Location Staff Signature: _____

This Inmate **MUST** report at the designated time and place. Failure to do so must be reported to their Sergeant's office immediately as to the cause and appropriate action as necessary.

I/M ASSIGNMENT LT. / Alt. WATCH COMMANDER 3/W

DUCAT / PASS

Name: SALCEDA CDC#: J90933 Dorm/Bed: B3-260L Date: 16OCT06
 Report To: CENTRAL HEALTH Time: 1400 Reason: MEDICAL
 Time Arrived: _____ Time Departed: _____ Location Staff Signature: _____

This Inmate **MUST** report at the designated time and place. Failure to do so must be reported to their Sergeant's office immediately as to the cause and appropriate action as necessary.

I/M ASSIGNMENT LT. / Alt. WATCH COMMANDER 3/W

DUCAT / PASS

Name: SALCEDA CDC#: J90933 Dorm/Bed: B3-260L Date: 23JAN07
 Report To: B - MEDICAL Time: 0800 Reason: DR.'S LINE
 Time Arrived: _____ Time Departed: _____ Location Staff Signature: _____

This Inmate **MUST** report at the designated time and place. Failure to do so must be reported to their Sergeant's office immediately as to the cause and appropriate action as necessary.

I/M ASSIGNMENT LT. / Alt. WATCH COMMANDER 3/W

CHUCKAWALLA VALEY STATE PRISON
MEDICAL ACTIVITY PASS

NAME SALCEDA CDC# J90933
TO: CH ACTIVITY MEDS
DAYS: M T W TH FR SA SU & HOLIDAYS
TIME 0700 A.M. 1830 P.M.
BEGINS 6-17-06 EXPIRES 7-17-06
SIGNATURE: [Signature]

NAME: Salceda CDC#: J90933
DATE: 7/17/06
FROM: B AD-400 ISSUED: 0900
DESTINATION: _____ RETURNED: _____

- ☐ PROGRAM SERVICES
☐ VISITING
☐ R & R
☐ LIBRARY
☐ WORK CHANGE
☒ OTHER: Medical

PASS

STAFF SIGNATURE A Silver Torres

NAME: SALCEDA CDC# J90933
DATE: 11-23-06 TIME _____
FROM B3 260L ISSUED 1850
RETURNED _____

DESTINATION _____

PASS

- ☐ PROGRAM SERVICES
☐ VISITING
☐ R&R
☐ LIBRARY
☐ WORK CHANGE
☒ OTHER: C-health

STAFF SIGNATURE: [Signature]

NAME Salceda CDC# J90933
DATE: 11/27/06
FROM: B3-260L ISSUED: 1000
DESTINATION: _____ RETURNED: _____
☐ PROGRAM SERVICES
☐ VISITING
☐ R & R
☐ LIBRARY
☐ WORK CHANGE
☐ OTHER: _____
STAFF SIGNATURE [Signature]

NAME Salceda, L CDC# J90933
DATE: 12/1/06
FROM B3-260L ISSUED: 0700
DESTINATION: _____ RETURNED: _____
☐ PROGRAM SERVICES
☐ VISITING
☐ R & R
☐ LIBRARY
☐ WORK CHANGE
☒ OTHER: Central Health
STAFF SIGNATURE [Signature]

CHUCKAWALLA VALLEY STATE PRISON PHARMACY
Box 2289, Blythe, CA 92226
SALCEDA, LEONARDO J-90933
B3-260L DR: DAVID, A/DUNN
665118-0 * PH: AE MFG: 24
CHLORPHEN1 RANINE 4MG 9
TAKE 1 TABL QT 3 TIMES A
DAY FOR 3 DAYS

START: 01/23/07 STOP: 02/22/07

CHUCKAWALLA VALLEY STATE PRISON PHARMACY

Box 2289, Blythe, CA 92226

SALCEDA, LEONARDO J-90933

B3-260L DR: DUNN, DAVID,

654709-0 RPH: CJ MFG: GX

PREDNISONE 10MG 70

TAKE AS DIRECTED PER

ATTACHED INSTRUCTIONS

Lot # 557857A Exp 10/07

START: 10/23/06 STOP: 11/23/06

CHUCKAWALLA VALLEY STATE PRISON PHARMACY

Box 2289, Blythe, CA 92226

SALCEDA, LEONARDO J-90933

B3-260L DR: DUNN, DAVID,

654708-0 RPH: CJ MFG: UM

SULFASALAZINE 500MG 120

TAKE 1TAB 4X DAILY

FOR 30 DAYS. NO REFILLS

Lot 5061890A Exp 12/10

START: 10/23/06 STOP: 11/22/06

CHUCKAWALLA VALLEY STATE PRISON PHARMACY

Box 2289, Blythe, CA 92226

SALCEDA, LEONARDO J-90933

B3-260L DR: DUNN, DAVID,

654707-0 RPH: CJ MFG: PG

ASACOL, MESALAMINE, 400MG 90

TAKE 1TAB 3X DAILY FOR

30 DAYS

Lot 42018751 Exp 11/07

START: 10/23/06 STOP: 11/22/06

CHUCKAWALLA VALLEY STATE PRISON PHARMACY

Box 2289, Blythe, CA 92226

SALCEDA, LEONARDO J-90933

B3-260L DR: GRANT/CULTON

644491-0 RPH: CJ MFG: UM

SULPASALAZINE 500MG 240

TAKE 4TABS 2X DAILY FOR

30 DAYS. NO REFILLS

START: 07/17/06 STOP: 08/16/06

CHUCKAWALLA VALLEY STATE PRISON PHARMACY

Box 2289, Blythe, CA 92226

SALCEDA, LEONARDO J-90933

B3-260L DR: R. ROBINSON, MD

608807-0 RPH: CJ MFG: PG

METAMUCIL PKTS 15

MIX 1PKT WITH WATER AND

DRINK FOR 15 DAYS. NO RFLS

START: 08/29/05 STOP: 09/13/05

NAME SALCEDA CDC# J90933

HOUSING B3-260L DR. DUNN

PREDNISONE 10 MG #70

TAKE 4 TABS (40)MG 1 X DAILY FOR 7 DAYS

TAKE 3 TABS (30)MG 1 X DAILY FOR 7 DAYS

TAKE 2 TABS (20)MG 1 X DAILY FOR 7 DAYS

TAKE 1 TABS (10)MG 1 X DAILY FOR 7 DAYS

CHUCKAWALLA VALLEY STATE PRISON PHARMACY

Box 2289, Blythe, CA 92226

SALCEDA, LEONARDO J-90933

B3-260L DR: M BROOKS/ANG

649771-0 RPH: CJ MFG: PG

PREDNISONE 20MG 7

TAKE 1TAB ONCE DAILY WITH

FOOD FOR 7 MORE DAYS

START: 09/05/06 STOP: 09/12/06

CHUCKAWALLA VALLEY STATE PRISON PHARMACY

Box 2289, Blythe, CA 92226

SALCEDA, LEONARDO J-90933

B3-260L DR: DUNN, DAVID,

638417-0 RPH: CJ MFG: PG

METAMUCIL PKTS 30

MIX 1PKT WITH WATER AND

DRINK AT BEDTIME. NO RFLS

START: 05/19/06 STOP: 06/18/06

CHUCKAWALLA VALLEY STATE PRISON PHARMACY

Box 2289, Blythe, CA 92226

SALCEDA, LEONARDO J-90933

B3-260L DR: ROTH, S/ANG

641131-0 RPH: MO MFG: GG

METRONIDAZOLE 250MG 42

TAKE 2TABS 3X DAILY FOR

1 WEEK

START: 06/14/06 STOP: 06/21/06

CHUCKAWALLA VALLEY STATE PRISON PHARMACY

Box 2289, Blythe, CA 92226

SALCEDA, LEONARDO J-90933

B3-260L DR: ANG, RONEO JR.

599686-0 RPH: CJ MFG: GG

METRONIDAZOLE 250MG 42

TAKE 2TABS 3X DAILY FOR

7 DAYS

NO ALCOHOL

START: 06/03/05 STOP: 06/10/05

You have the right and obligation to make decisions concerning your health care. Your physician can provide you with the necessary information and advice, but because this affects you, you must enter into the decision making process. This form has been designed to acknowledge your acceptance of treatment recommended by your physician.

I hereby authorize Dr. Schubert, associates and assistants to perform the following procedure(s):

Colonoscopy

For surgical procedure, I recognize that, during the course of the operation, post operative care, medical treatment anesthesia, or other procedure, unforeseen conditions may necessitate my above-named physician and his or her assistants, to perform such surgical or other procedures as are necessary. I consent to the observation or photographing of the operative procedure for the purpose of advancing medical education. Any tissues or part surgically removed may be disposed of by the hospital or physician in accordance with accustomed practice. In case of Prostate and Breast cancer, information brochure is given to me.

For use of anesthesia, I consent to the administration of (MAC, general, spinal, regional, conscious sedation, local) anesthesia by my attending physician, by an anesthesiologist, a nurse anesthetist, or other qualified parties under the direction of a physician or operating surgeon as may be deemed necessary. I understand that my physician or anesthesia provider discussed anesthesia risk and benefits to me prior to procedure.

For Blood Transfusion, I have received a copy of the Department of Health Services information pamphlet, *A Patient Guide to Blood Transfusion*, concerning the advantages, disadvantages, risks and benefits of autologous blood and of directed and non-directed homologous blood from volunteers. I have been given adequate time for myself or other person to pre-donate blood for transfusion purposes unless where there is a life-threatening emergency, or medical contraindication, or if I have waived this right.

For Radiology procedures and X-ray, I was told about the risk of injecting the contrast material into my blood vessels. I confirm that I am not taking Glucophage, or metformin hypochloride for diabetes. I confirm that I am not pregnant, do not have asthma, or hay fever, or kidney problem. I am not allergic to iodine, and never had a reaction to contrast dye.

I agree that my physician has informed me of the:

1. Diagnosis or probable diagnosis
2. Nature and benefit of treatment or procedures recommended
3. Risks, complications, and problems related to recuperation involved in such treatment or procedures.
4. Anticipated results of treatment
5. Available alternative forms of treatment, including non-treatment

I acknowledge that I have read and fully understand the above consent, and I have sufficient information to give my informed consent.

Leovardo Salceda

Signature: Patient/ Other Legally Responsible Person

Signature: Practitioners

[Signature]

Signature: Witness (authenticating the above signature)

7/10/06 0715

Date and Time



250-N-First-Street
Bythe, CA 92225
(760) 922-4115

ADDRESSOGRAPH

**AUTHORIZATION FOR AND INFORMED
CONSENT TO SURGERY OR SPECIAL
DIAGNOSTIC OR THERAPEUTIC PROCEDURE**

Ex:

CHUCKAWALLA VALLEY STATE PRISON PHARMACY
Box 2289, Blythe, CA 92226

SALCEDA, LEONARDO J-90933
B3-260L DR: DAVID, A/DUNN
665119-0 RPH: AE MFG: GX
ACETAMINOPHEN 325MG 30
TAKE 1 TO 2 TABS THREE
TIMES A DAY

START: 01/23/07 STOP: 01/30/07

CHUCKAWALLA VALLEY STATE PRISON PHARMACY
Box 2289, Blythe, CA 92226

SALCEDA, LEONARDO J-90933
B3-260L DR: DUNN, DAVID,
658631-0 RPH: CJ MFG: UM
SULFASALAZINE 500MG 180
TAKE 3 TABS (1500) 2X DAILY
FOR 30 DAYS

START: 11/27/06 STOP: 12/27/06

Lot # 5063020A
EXP 3/11

Salceda J90933. 11/23/06
Sulfasalazine 500mg, take
one tab four times a day
for 30 days #17 CR

CHUCKAWALLA VALLEY STATE PRISON PHARMACY
Box 2289, Blythe, CA 92226

SALCEDA, LEONARDO J-90933
B3-260L DR: DAVID, A/DUNN
665119-0 RPH: CJ MFG: UM
SULFASALAZINE 500MG 180
TAKE 3 TABS 2X DAILY
AUTO REFILL

START: 12/29/06 STOP: 02/29/07

CHUCKAWALLA VALLEY STATE PRISON PHARMACY
Box 2289, Blythe, CA 92226

SALCEDA, LEONARDO J-90933
B3-260L DR: M BROOKS/ANG
649515-0 RPH: CJ MFG: GA
ACETAMINOPHEN 325MG 120
TAKE 2 TABS EVERY 4-6 HRS
AS NEEDED FOR HEADACHE NR

START: 08/31/06 STOP: 09/15/06

CHUCKAWALLA VALLEY STATE PRISON PHARMACY
Box 2289, Blythe, CA 92226

SALCEDA, LEONARDO J-90933
B3-260L DR: DUNN, DAVID,
658633-0 RPH: CJ MFG: GX
ACETAMINOPHEN 325MG 36
TAKE 2 TABS EVERY 4 HOURS
AS NEC. FOR HEADACHE. NO RF

START: 11/27/06 STOP: 11/30/06

STATE OF CALIFORNIA
INMATE PASSDEPARTMENT OF CORRECTIONS
CDC 129 (7/88)

INMATE'S NAME <i>Salceda</i>	CDC #: <i>J-90933</i>	HOUSING #: <i>B3260L</i>
ISSUED BY: <i>J. J. Smith</i>	DATE: <i>6/28/06</i>	PASS FROM: <i>Bmers</i>
PASS TO: <i>CH</i>	DATE: <i>6/28/06</i>	TIME: <i>1400</i>
REASON: <i>MD Eval</i>		
ARRIVAL TIME:	RECORDED BY:	
DEPART TO:	TIME:	RECORDED BY:

STATE OF CALIFORNIA
INMATE PASSDEPARTMENT OF CORRECTIONS
CDC 129 (7/88)

INMATE'S NAME <i>Salceda, Leonardo</i>	CDC #: <i>J-90933</i>	HOUSING #: <i>B3260L</i>
ISSUED BY: <i>Hualston, R.W.</i>	DATE: <i>7/10/06</i>	PASS FROM: <i>CH</i>
PASS TO: <i>B3260L</i>	DATE: <i>7/10/06</i>	TIME: <i>1600</i>
REASON: <i>Medical</i>		
ARRIVAL TIME:	RECORDED BY:	
DEPART TO:	TIME:	RECORDED BY:

CHUCKAWALLA VALLEY STATE PRISON PHARMACY
Box 2289, Blythe, CA 92226

SALCEDA, LEONARDO J-90933
C6-237L DR: RAHIMI
701817- 0 RPH: CJ MFG: UM
SULFASALAZINE 500MG 360
TAKE 3TABS 4X DAILY
AUTO REFILL

START: 11/08/07 STOP: 03/07/08



YOU SHOULD AVOID PROLONGED
OR EXCESSIVE EXPOSURE TO DIRECT
AND/OR ARTIFICIAL SUNLIGHT
WHILE TAKING THIS MEDICATION.

CHUCKAWALLA VALLEY STATE PRISON PHARMACY
Box 2289, Blythe, CA 92226

SALCEDA, LEONARDO J-90933
CI-161 DR: JAMES, P
700791- 0 RPH: CJ MFG: UM
SULFASALAZINE 500MG 180
TAKE 3TABS 2X DAILY

START: 11/01/07 STOP: 12/01/07

CHUCKAWALLA VALLEY STATE PRISON PHARMACY
Box 2289, Blythe, CA 92226

SALCEDA, LEONARDO J-90933
C6-237L DR: TORRES, KIRK
684481- 0 RPH: CJ MFG: GX
ACETAMINOPHEN 325MG 120
TAKE 1-2TABS 4X DAILY AS
NEC FOR PAIN. REFILL OKAY

START: 06/25/07 STOP: 09/23/07

CHUCKAWALLA VALLEY STATE PRISON PHARMACY
Box 2289, Blythe, CA 92226

SALCEDA, LEONARDO J-90933
C6-237L DR: TORRES, K
692069- 0 RPH: CJ MFG: UM
SULFASALAZINE 500MG 180
TAKE 3TABS 2X DAILY
AUTO REFILL

START: 08/24/07 STOP: 11/22/07



May Cause
DROWSINESS

CHUCKAWALLA VALLEY STATE PRISON PHARMACY
Box 2289, Blythe, CA 92226

SALCEDA, LEONARDO J-90933
C6-237L DR: TORRES, K
692078- 0 RPH: CJ MFG: Z4
CHLORPHENIRAMINE 4MG 60
TAKE 1TAB 4X DAILY AS NEC
FOR ITCHING/CONGESTION. RF

START: 08/24/07 STOP: 11/22/07

CHUCKAWALLA VALLEY STATE PRISON PHARMACY
Box 2289, Blythe, CA 92226

SALCEDA, LEONARDO J-90933
C6-237L DR: RAHIMI
701818- 0 RPH: CJ MFG:
FOLIC ACID 1MG 30
TAKE 1TAB ONCE DAILY
AUTO REFILL

START: 11/08/07 STOP: 03/07/08

CHUCKAWALLA VALLEY STATE PRISON PHARMACY
Box 2289, Blythe, CA 92226

SALCEDA, LEONARDO J-90933
C6-237L DR: RAHIMI
701820- 0 RPH: CJ MFG: GX
ACETAMINOPHEN 325MG 90
TAKE 2TABS 3X DAILY AS
NEEDED. 01 REFILL OKAY

START: 11/08/07 STOP: 12/08/07

CHUCKAWALLA VALLEY STATE PRISON PHARMACY
Box 2289, Blythe, CA 92226

SALCEDA, LEONARDO J-90933
C6-237L DR: TORRES, K
701336- 0 RPH: CJ MFG:
FOLIC ACID 1MG 6
TAKE 1TAB ONCE DAILY
NO REFILLS

START: 11/05/07 STOP: 11/11/07

CHUCKAWALLA VALLEY STATE PRISON PHARMACY
Box 2289, Blythe, CA 92226

SALCEDA, LEONARDO J-90933
C6-237L DR: TORRES, K
692077- 0 RPH: CJ MFG: VZ
MULTIVITAMINS 30
TAKE 1CAP ONCE DAILY
02 REFILLS OKAY

START: 08/24/07 STOP: 11/22/07

CHUCKAWALLA VALLEY STATE PRISON PHARMACY
Box 2289, Blythe, CA 92226

SALCEDA, LEONARDO J-90933
C6-237L DR: TORRES, K
692079- 0 RPH: CJ MFG: GX
ACETAMINOPHEN 325MG 120
TAKE 1-2TABS 4X DAILY AS
NEEDED FOR PAIN. REFILL OK

START: 08/24/07 STOP: 11/22/07

MEDICAL AND SURGICAL CONSENT

The undersigned consents to the procedures which may be performed during this episode of care, which may include but are not limited to laboratory procedures, x-ray examinations, medical or surgical treatment or procedures, anesthesia services, and other clinical services rendered to the patient under the general and special instructions of the patient's physician or surgeon. The undersigned recognizes that some of the health care providers furnishing service to the patient may be independent contractors, and not employees or agents of CDC. The patient is under the care and supervision of his/her attending physician, and it is the responsibility of the institution and its nursing staff to carry out the instructions of such physician. It is the responsibility of the patient's physician or surgeon to obtain the patient's informed consent, when required, to have medical or surgical treatment, special diagnostic or therapeutic procedures.

NURSING CARE

This institution provides only general duty nursing care unless, upon orders of the patient's physician, the patient is provided more intensive nursing care.

RELEASE OF INFORMATION

Upon inquiry, the institution may make available to those persons with a need to know certain basic information about the patient, including name, address, age, sex, general description of the reason for treatment (whether an injury, burn, poisoning, or other condition), general nature of the injury, burn, poisoning, or other condition, and general condition. If the patient does not want such information to be released, he/she must make a written request for such information to be withheld. The institution will obtain the patient's consent and his/her written authorization to release information, other than basic information, concerning the patient, except in those circumstances when the facility is permitted or required by law to release information. Special permission is needed to release any information if the patient is treated for alcohol, drug abuse, or HIV.

Salceda, Leovardo
PATIENT'S NAME (PLEASE PRINT)

Leovardo Salceda
PATIENT'S SIGNATURE

11/1/07
DATE/TIME

W. William Rvc
WITNESS SIGNATURE

RN
TITLE/RELATIONSHIP TO PATIENT

11/1/07
DATE WITNESSED

INTERPRETER/READER NEEDS (Complete only if needed)
Every word of this form needs to be (Check the appropriate box):

☐ interpreted into _____,

or

☐ read to inmate.

Interpreted/Read by: _____ Date _____

Signature of Interpreter/Reader

Inmate's Signature _____ Date _____

Distribution:

Original: Unit Health Record

Copy: Inmate-Patient

CONDITIONS OF ADMISSION/PLACEMENT
CDC 7293 (Rev 1/00)

CDC NUMBER, NAME (LAST, FIRST, MI), BIRTHDATE

SALCEDA LEOVARDO

J-90933

08/20/69

PART I: TO BE COMPLETED BY THE PATIENT

A fee of \$5.00 may be charged to your trust account for each health care visit.

If you believe this is an urgent/emergent health care need, contact the correctional officer on duty.

REQUEST FOR: MEDICAL ☒ MENTAL HEALTH ☐ DENTAL ☐ MEDICATION REFILL ☐

NAME Salceda, Leovardo CDC NUMBER J-90933 HOUSING D9-237L

PATIENT SIGNATURE Leovardo Salceda DATE 2-23-08

REASON YOU ARE REQUESTING HEALTH CARE SERVICES. (Describe Your Health Problem And How Long You Have Had The Problem)

I have Chrones disease. A couple weeks ago I began to get sick, feeling weak, blood in stool, and unable to sleep. I tried to help myself, but it has persisted, so I ask to see the doctor. Thank you. Respectfully Submitted.

NOTE: IF THE PATIENT IS UNABLE TO COMPLETE THE FORM, A HEALTH CARE STAFF MEMBER SHALL COMPLETE THE FORM ON BEHALF OF THE PATIENT AND DATE AND SIGN THE FORM

PART III: TO BE COMPLETED AFTER PATIENT'S APPOINTMENT

☐ Visit is not exempt from \$5.00 copayment. (Send pink copy to Inmate Trust Office.)

PART II: TO BE COMPLETED BY THE TRIAGE REGISTERED NURSE

Date / Time Received: _____ Received by: _____
Date / Time Reviewed by RN: _____ Reviewed by: _____
S: _____ Pain Scale: 1 2 3 4 5 6 7 8 9 10

O: T: P: R: BP: WEIGHT:

A:

P:

☐ See Nursing Encounter Form

E:

APPOINTMENT SCHEDULED AS: EMERGENCY (IMMEDIATELY) ☐ URGENT (WITHIN 24 HOURS) ☐ ROUTINE (WITHIN 14 CALENDAR DAYS) ☐

REFERRED TO PCP: _____ DATE OF APPOINTMENT: _____

COMPLETED BY: _____ NAME OF INSTITUTION: _____

PRINT / STAMP NAME: _____ SIGNATURE / TITLE: _____ DATE/TIME COMPLETED: _____



STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

INMATE/PAROLEE APPEAL FORM

CDC 802 (12/87)

Location: Institution/Parole Region

Log No.

Category

1.

2.

You may appeal any policy, action or decision which has a significant adverse effect upon you. With the exception of Serious CDC 115s, classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
Sanders	H-80090	Counsel's Clerk	B5-110

A. Describe Problem: This is an Inmate Group Appeal pursuant to 15 CCP 3084.2.(f) in regards to the lack of up-to-date legal materials in Facility B Library.

In order to be held to the federal one year statute of limitations under the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), fundamentally, a pro se litigant has to be afforded access to the library, and the library must have up-to-date materials.

If you need more space, attach one additional sheet. CONTINUED TO PAGE #2

B. Action Requested: The PLU inmates on Facility B, respectfully, request the library be brought into compliance immediately -- without any further delays.

Inmate/Parolee Signature: [Signature]Date Submitted: 7-28-02

C. INFORMAL LEVEL (Date Received: _____)

Staff Response: _____

Staff Signature: _____

Date Returned to Inmate: _____

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature: _____

Date Submitted: _____

Property/Funds appeals must be accompanied by a completed

Board of Control form BC-1E, Inmate Claim

CDC Appeal Number

Exh.
D5

Lib

A. Describe Problem (continued):

Up-dating a legal library is a fluid endeavor -- it is on-going. When the law books are being up-dated on schedule, updates and supplements are added to the library on a daily, weekly, monthly, and yearly basis.

As of this writing the below listed research materials have not been updated since last year: The California Reporter, The Federal Reporters, The Federal Supplements, The Supreme Court Reporters, The California Codes Annotate, The Federal Digests, The United States Codes, The Witkens and Epstein Volumes, and Appeals and Writs in Criminal Cases (2000, usually updated yearly).

15 CCR 3122(a), states, "Each facility shall provide legal materials through its law library to provide inmates with meaningful access to the courts." This is a mandatory CDC regulation buttressed by both state and federal law. (Penal Code sections 5054 & 5058; Gilmore v. Lynch 319 F. Supp 105; Toussaint v. McCarthy 801 F.2d 1080 (9th Cir. 1986))

It is virtually impossible for a pro se petitioner to litigate their claims unless they are afforded access to an adequate library. In Walen/Hunt v. Early (9th Cir. 2000), the Ninth Circuit unanimously ruled en banc that an inadequate law library is an impediment to one's obligation under 28 USC 2244 -- the AEDPA's one year statute of limitations.

Currently, Mrs. Rowe, the Senior Librarian provided the materials in question to yards A, C, and D. She is operating under the impression that the PLU inmates on Facility B are not privy to these mandatory legal updates. She has them, will not issue them, and is trying to send them back to the publishers for a refund -- citing budgetary considerations. In an era of dead-line oriented litigation, this is simply unacceptable.

The class of inmates affected by the unconstitutional denial of meaningful access to the courts have no other alternative than to appeal this matter.

cc: Senior Librarian, S.C.E.P., Associate Warden (Fac. A&B), Warden, Litigation Coordinator,
Prison Law Office, Senator Richard Polanco

Exh.
D5

FACILITY J PLUS: GROUP APPELLANTS

NAME	CDC Number	Cell Number
1.) Mr. POGETT	K-45050	B-5 110 L
2.) Woody	H43127	B5 111 L
3.) Fennell	P29485	B-5-201
	J-63078	B-5-249
4.) GRASS		
5.) Wynglarz	J-74845	B5-119
5.) Braubila	H-48354	B5-231U
7.) Paul Han	P-50429	B5-215
8.) Lopez	K-94513	B5 121
9.) Ramsey	K04236	B5-233
10.) Dey		B5-229
11.) Salceda	J-90933	B5-217 L

Exh. D5

State of California

Department of Corrections and Rehabilitation

Memorandum

Date: May 16, 2008

To: All Concerned

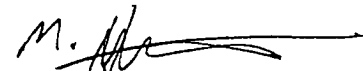
Subject: **LIBRARY OPERATIONS BEGINNING MAY 16, 2008**

Until further notice all libraries may be on restricted open days and hours depending on staff available, inmate clerks available and trained, and of course, the move from B to C Facility.

The primary library function until all issues are resolved in all libraries will be the law libraries. Seating is limited; Preferred Legal Users (PLU) will always be seated, others depending on the posted library capacity.

Recreation reading library will be closed on a yard by yard, day by day basis until there are sufficient inmate staff and operating days to handle the demand. If recreation library is able to open and then must be shut down the next operating day for reason, please deposit all due books in the outside drop box.

If you have questions, contact me at extension 5628.


M. HARTMAN
Senior Librarian

cc: C. Ynson, SCEP
Facility Captain's
LTA's

State of California

Department of Corrections and Rehabilitation

Memorandum

Date: October 24, 2007

To: ALL INMATE LAW LIBRARY USERS

Subject: SHEPARDIZING-EFFECTIVE OCTOBER 24, 2007


Effective October 24, 2007, all inmate Law Library users who utilize Shepard's® for research of their respective cases, will submit the attached form "CVSP Inmate Request to Shepardize Case" (after completion) to the Library staff on duty or forward it to "Central Library-A Yard" within a U-Save-em envelope, to get the most recent information relevant to their research.

In keeping with the Department's reduction of printed material to one print library archive within the institution, all submitted Shepard's® research will be conducted at Central Library, all Shepard's® material located in the satellite libraries will no longer be updated.

All submitted "CVSP Inmate Request to Shepardize Case" forms received by Central Library will be researched, copies made of relevant material, logged, and returned to the requesting inmate via institutional mail. All requests will be researched in the Shepard's® hardbound editions, Cumulative® updates and Express® updates. All submitted forms will be afforded first priority over all other Central Library functions daily.

Up to four (4) Case Citations may be submitted per form. **In all instances the case citation must be filled in**, case name is helpful but not required (see example). The forms (and envelopes) are available at the law counter.

If you have any questions regarding this process, please contact the Library staff on duty.



M. HARTMAN
Senior Librarian

cc: K. Williams, Vice Principal, Academic Instruction
Library Staff

State of California

Department of Corrections and Rehabilitation

Memorandum

Date: July 27, 2007

To: All Concerned

Subject: **LIBRARY SCHEDULE-JULY 30 THROUGH AUGUST 10, 2007**

The following are the library operating schedules from July 30, through August 10, 2007. All Libraries will be open between 0830 hours to yard recall (lunch) & afternoon yard release to 1515 hours unless otherwise noted:

JULY 30 – AUGUST 3, 2007

	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
CENTRAL LIBRARY	OPEN PM only	OPEN PM only	OPEN PM only	OPEN PM only	OPEN PM only
A-LIBRARY	OPEN AM only	OPEN	CLOSED	CLOSED	CLOSED
B-LIBRARY	CLOSED	OPEN AM only	OPEN	CLOSED	CLOSED
C-LIBRARY	OPEN	CLOSED	OPEN AM only	OPEN	CLOSED
D-LIBRARY	CLOSED	CLOSED	CLOSED	OPEN AM only	OPEN AM only
F-LIBRARY	CLOSED	CLOSED	CLOSED	CLOSED	OPEN

AUGUST 6 – AUGUST 10, 2007

	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
CENTRAL LIBRARY	OPEN PM only	OPEN PM only	OPEN PM only	OPEN PM only	OPEN PM only
A-LIBRARY	OPEN	OPEN AM only	CLOSED	CLOSED	CLOSED
B-LIBRARY	CLOSED	OPEN	OPEN AM only	CLOSED	CLOSED
C-LIBRARY	OPEN AM only	CLOSED	OPEN	OPEN AM only	CLOSED
D-LIBRARY	CLOSED	CLOSED	CLOSED	OPEN	OPEN
F-LIBRARY	CLOSED	CLOSED	CLOSED	CLOSED	OPEN AM only

The library may be closed for facility or institution lockdown, institutional emergency, state holiday, absence of staff, staff training, or any other reason approved by the Supervisor of Correctional Education Programs (SCEP) or institution administration.


M. HARTMAN
Senior Librarian


K. WILLIAMS
SAI


C. YNSON
SCEP

cc: Facility Captains
Libraries

Memorandum

Date: April 2, 2007


To: All Concerned

Subject: **LIBRARY SCHEDULE**

The following is the library operating schedule as of April 5, 2007. All Libraries will be open between 0830 hours to yard recall (lunch) & afternoon yard release to 1530 hours (F-Library 1515 hours):

	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
A-LIBRARY	-OPEN-	-OPEN-	CLOSED	CLOSED	CLOSED
B-LIBRARY	CLOSED	-OPEN-	-OPEN-	CLOSED	CLOSED
C-LIBRARY	CLOSED	CLOSED	-OPEN-	-OPEN-	CLOSED
D-LIBRARY	-OPEN-	CLOSED	CLOSED	-OPEN-	-OPEN-
F-LIBRARY	CLOSED	CLOSED	CLOSED	CLOSED	-OPEN-

The library may be closed for facility or institution lockdown, institutional emergency, state holiday, absence of staff, staff training, or any other reason approved by the Supervisor of Correctional Education Programs (SCEP) or institution administration.


M. HARTMAN
Senior Librarian


K. WILLIAMS
SAI


C. YNSON
SCEP

cc: Facility Captains
Libraries

State of California

Department of Corrections and Rehabilitation

Memorandum

Date: October 10, 2006

To: All Concerned

Subject: LIBRARY SCHEDULE

The following is the library operating schedule as of October 10, 2006. All Libraries will be open between 0830-1045 & 1200-1530 hours (OPEN* - 0830-1030 & 1330-1530 hours):

	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
A-LIBRARY	OPEN	OPEN*	CLOSED	CLOSED	CLOSED
B-LIBRARY	CLOSED	OPEN	CLOSED	CLOSED	OPEN*
C-LIBRARY	CLOSED	CLOSED	OPEN	OPEN*	CLOSED
D-LIBRARY	CLOSED	CLOSED	OPEN*	OPEN	CLOSED
F-LIBRARY	CLOSED	CLOSED	CLOSED	CLOSED	OPEN

The library may be closed for facility or institution lockdown, institutional emergency, state holiday, absence of staff, staff training, or any other reason approved by the Supervisor of Correctional Education Programs (SCEP) or institution administration.


 M. HARTMAN
 Senior Librarian


 C. YANSON
 SCEP

cc: Facility Captains
 Libraries

Exh. D5

State of California

Department of Corrections and Rehabilitation

Memorandum

Date: May 8, 2006

To: All Concerned

Subject: **LIBRARY SCHEDULE**

The following is the library operating schedule as of April 8, 2006. All Libraries will be open between 1200-1515 hours:

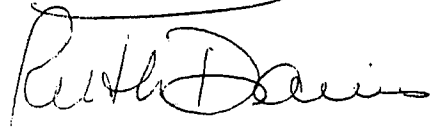
	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
A-LIBRARY	OPEN	CLOSED	CLOSED	CLOSED	CLOSED
B-LIBRARY	CLOSED	OPEN	CLOSED	CLOSED	CLOSED
C-LIBRARY	CLOSED	CLOSED	OPEN	CLOSED	CLOSED
D-LIBRARY	CLOSED	CLOSED	CLOSED	OPEN	CLOSED
F-LIBRARY	CLOSED	CLOSED	CLOSED	CLOSED	OPEN

The library may be closed for facility or institution lockdown, institutional emergency, state holiday, absence of staff, staff training, or any other reason approved by the Supervisor of Correctional Education Programs (SCEP) or institution administration.

If you have questions, contact me at extension 5628.


 M. HARTMAN
 Senior Librarian


 APPROVED/DISAPPROVED


 R. DAVIS
 SVI


 APPROVED/DISAPPROVED


 C. YNISON
 SCEP

LAW BOOK & INFORMATION REQUEST			
Requestor's Information			
NAME:	<u>Salceda</u>		
CDC Number:	<u>J-90933</u>		
Yard/Dorm/Bed #:	<u>B3-260Low</u>		
Date Requested:	<u>7-1-05</u>		
INFORMATION OR CASE CITATION DATA			
List Complete Citation Information:			
Example: Name Of Case Smith vs. Taylor	Volume 43	Book Federal Supplement 3d	Page 143
Topic Example: Crime, Law, Drugs Search, Trial, Etc.			
INFORMATION: List all known facts regarding Subject in spaces 1-4 below			
Name Of Case *	Volume	Book	Topic
1. <u>Daniels v. U.S.</u>	<u>149</u>	<u>L.Ed.2d</u>	<u>Habeas</u>
2. <u>Dist. At. v. Coss</u>	<u>149</u>	<u>L.Ed.2d</u>	<u>Habeas</u>
3. <u>Revised General Release</u>	<u>7-6-05</u>		
4.			
* If you do not fill out the proper Case Name your request can not be properly filled!			
IF YOU DO NOT FILL OUT THIS PART OUT CORRECTLY, YOUR REQUEST WILL NOT BE FILLED. BE SURE TO WRITE OUT ALL THE INFORMATION REQUESTED! (Use Back Of This Form If More Space Is Needed)			
LIBRARY STAFF USE ONLY			
Date Received	Dated Returned		
<u>7-1-05</u>	<u>Complete 7-5-05</u>		
Comments:			
LIBRARY STAFF SIGNATURES REQUIRED			
Library Technical Assistant	Senior Librarian		
<u>Angela</u>			
FOR INMATE USE ONLY			
<input checked="" type="checkbox"/> Do you wish your request to be forwarded to Mountain Valley System if not found in CVSP Library. (If the above listed box is not checked, your request will not be forwarded)			

Exh. D5

LAW BOOK & INFORMATION REQUEST			
Requestor's Information			
NAME:	<u>Salceda</u>		
CDC Number:	<u>J-90933</u>		
Yard/Dorm/Bed #:	<u>B3-260L</u>		
Date Requested:	<u>6-29-05</u>		
INFORMATION OR CASE CITATION DATA			
List Complete Citation Information:			
Example: Name Of Case Smith vs. Taylor	Volume 43	Book Federal Supplement 3d	Page 143
Topic Example: Crime, Law, Drugs Search, Trial, Etc.			
INFORMATION: List all known facts regarding Subject in spaces 1-4 below			
Name Of Case *	Volume	Book	Topic
1. <u>In re Steel</u>	<u>10</u>	<u>Cal. 4th 3d</u>	<u>Habeas</u>
2.			
3.			
4.			
* If you do not fill out the proper Case Name your request can not be properly filled!			
IF YOU DO NOT FILL OUT THIS PART OUT CORRECTLY, YOUR REQUEST WILL NOT BE FILLED. BE SURE TO WRITE OUT ALL THE INFORMATION REQUESTED! (Use Back Of This Form If More Space Is Needed)			
LIBRARY STAFF USE ONLY			
Date Received	Dated Returned		
Comments:			
LIBRARY STAFF SIGNATURES REQUIRED			
Library Technical Assistant	Senior Librarian		
FOR INMATE USE ONLY			
<input checked="" type="checkbox"/> Do you wish your request to be forwarded to Mountain Valley System if not found in CVSP Library. (If the above listed box is not checked, your request will not be forwarded)			

Exh. D5

LAW BOOK & INFORMATION REQUEST

Requestor's Information

NAME: Salceda
 CDC Number: J-90933
 Yard/Dorm/Bed #: B Yard, B3, 260 Low
 Date Requested: 6-20-05

INFORMATION OR CASE CITATION DATA

List Complete Citation Information:

Example: Name Of Case Smith vs. Taylor Volume 43 Book Federal Supplement 3d Topic Crime, Law, Drugs Page 143
 INFORMATION: List all known facts regarding Subject in spaces 1-4 below

Name Of Case*
 1. In re Horowitz Volume (4) Book Cal. Rptr. 3d Topic Habeas Page 616
 2. (2) Volume (2) Book Cal. Rptr. 3d Topic Habeas Page 854
 3. 7 Volume (33) Book Cal. 2d Topic Habeas Page 159
 4. In re Horowitz Volume (33) Book Cal. 2d Topic Habeas Page 534

* If you do not fill out the proper Case Name your request can not be properly filled!

IF YOU DO NOT FILL OUT THIS PART OUT CORRECTLY, YOUR REQUEST WILL NOT BE FILLED. BE SURE TO WRITE OUT ALL THE INFORMATION REQUESTED! (Use Back Of This Form If More Space Is Needed)

LIBRARY STAFF USE ONLY

Date Received 6-20-05 Date Returned 6-22-05Comments: #3 sent to B" library 7-12-05 removed

LIBRARY STAFF SIGNATURES REQUIRED

Library Technical Assistant AmeliaSenior Librarian LS

FOR INMATE USE ONLY

☒ Do you wish your request to be forwarded to Mountain Valley System if not found in CVSP Library.
 (If the above listed box is not checked, your request will not be forwarded)

2005

Exh. D5

LAW BOOK & INFORMATION REQUEST

Requestor's Information

NAME: Salceda
 CDC Number: J-90933
 Yard/Dorm/Bed #: B3-260 Low
 Date Requested: 6-18-05

INFORMATION OR CASE CITATION DATA

List Complete Citation Information:

Example: Name Of Case Smith vs. Taylor Volume 43 Book Federal Supplement 3d Topic Crime, Law, Drugs Page 143
 INFORMATION: List all known facts regarding Subject in spaces 1-4 below

Name Of Case*
 1. In re Dixon Volume 41 (MS) Book Cal. 2d Topic Habeas Corpus Page 756
 2. In re Lixley Volume 29 (1997) Book Cal. 2d Topic Habeas Corpus Page 709
 3. Received 7-13-05 Volume Received 7-13-05 Book Received 7-13-05 Topic Received 7-13-05 Page Received 7-13-05

* If you do not fill out the proper Case Name your request can not be properly filled!

IF YOU DO NOT FILL OUT THIS PART OUT CORRECTLY, YOUR REQUEST WILL NOT BE FILLED. BE SURE TO WRITE OUT ALL THE INFORMATION REQUESTED! (Use Back Of This Form If More Space Is Needed)

LIBRARY STAFF USE ONLY

Date Received 6-20-05 Date Returned 6-22-05Comments: sent to B" library 7-12-05 removed

LIBRARY STAFF SIGNATURES REQUIRED

Library Technical Assistant AmeliaSenior Librarian LS

FOR INMATE USE ONLY

☒ Do you wish your request to be forwarded to Mountain Valley System if not found in CVSP Library.
 (If the above listed box is not checked, your request will not be forwarded)

2005

Exh. D5

Mr. Hartman, r/m Salceda
requests to return his
From: Bravo Library
Date: November 30, 2005 request for Library time
and the attachments.
TO WHOM IT MAY CONCERN

In the months of October and November 2005 Inmate
Salceda J-90933 has utilized B Library 7 times
on the following dates:

10-12-05,	1 1/2 hours	varified	(as)	12-5-05.
10-14-05,	3 hours		"	
10-24-05,	2 hours		"	
10-31-05,	3 hours		"	
11-2-05,	1 hour		"	
11-16-05,	1 1/2 hours		"	
11-18-05,	1 hour		"	
11-30-05,	2 hours		"	

There are 10 seats to accommodate library inmate users on B yard.

From September through November 2005 the 2 type
writer have been removed from B yard library. It is unclear
when or if the type-writers will be returned.

Library Staff

Exh. D5

State of California

Department of Corrections

Memorandum

Date : January 20, 2005

To : J. M. Cortez
Chief Deputy Warden (A)

Subject: INMATE ACCESS TO THE LAW LIBRARY

In an effort to continue to provide adequate inmate access to the Law Library during the second watch programs on "C" Facility, it is necessary to make an adjustment to the existing memorandum currently in use to provide services to inmates with verified court deadlines, dated November 29, 2004, and approved by J. M. Cortez, A.W. Complex II.

The Senior Librarian or Library Technical Assistant will verify court deadlines. Once the court deadline is verified, the Senior Librarian or Library Technical Assistant will provide a ducat list to the "C" Facility Program Services office, the program office will generate a priority ducat list for the "C" Facility Library during library operating hours.

As additional library staff are in place, we plan to implement this system on all yards, until that time Mr. Cortez memorandum dated November 29, 2004 will remain in effect for all other Facility Library operations.

N. D. KRAFT
Supervisor of Correctional Education Programs (A)
Chuckawalla Valley Adult School

APPROVED/DISAPPROVED

J. M. CORTEZ
Chief Deputy Warden (A)

Attachment: Proposed (Temporary) Law Library Access

C:\C:\117\0000
DLA\LawLibrary\Law Access.docLibrary Schedule
1/31/05 to 2/11/05

Monday's: "A" Library – Mr. Hartman Sr. Librarian	Tuesday's: Central Library – Mr. Hartman Sr. Librarian
Wednesday's: "D" Library – Staff	Monday-Friday: "C" Library – Ms. Chavez, LTA
Friday's: "F" Library – Mr. Hartman Sr. Librarian	Friday's: "B" Library – Staff

Revised: 1/25/05

N. D. KRAFT
Supervisor of Correctional Education Programs (A)

Exh. D5

Exh. D5

State of California

Department of Corrections

Memorandum

Date : November 29, 2004

To : Facility Captains

Subject: PROPOSED (TEMPORARY) LAW LIBRARY ACCESS

In able to prioritize library services to inmates with court deadlines who are programming during 2nd Watch, we will implement the following system. This system will remain in effect until further notice.

The Facility Captain or his designee will verify court deadlines. Once the court deadline has been verified, the Program Services office will create a priority ducat list for the day the Facility Library is scheduled to be open. The ducat list is then to be signed and routed by the Facility Captain or his designee.

If you have any questions or concerns please contact D. Kraft, SCEP (A) at 5602.

N.D. KRAFT
Supervisor of Correctional Education Programs (A)

APPROVED/DISAPPROVED

J. MICORTEZ
A. W. Complex II

Library Schedule
12/20/04 to 12/30/04

Monday 12/20/04: "A" Library – Mr. Hartman Sr. Librarian	Monday 12/20/04: "D" Library – Ms. Davis, SVI
Tuesday 12/21/04: "B" Library – Ms. Williams, SAI	Wednesday 12/22/04: "C" Library – Mr. Kraft, SCEP (A)
Thursday 12/23/04: "F" Library – Ms. Williams, SAI	
Monday 12/27/04: "A" Library – Mr. Hartman Sr. Librarian	Monday 12/27/04: "D" Library – Ms. Davis, SVI
Tuesday 12/28/04: "B" Library – Ms. Williams, SAI	Tuesday 12/28/04: "C" Library – Mr. Kraft, SCEP (A)
Thursday 12/30/04: "F" Library – Mr. Hartman Sr. Librarian	

Revised: 12/13/04

CDC 1917 (08/97)

Exh. D5

Exh. D5

N.O. Kraft
SCEP (A)

State of California

Department of Corrections

Memorandum

Date December 19, 2003

To ALL LIBRARY STAFF
Chuckawalla Valley Adult School
CVSP

Subject LAW LIBRARY OPERATIONS

Chuckawalla Valley Adult School is faced with a critical shortage of library staff. Currently, there are only two people to operate six library sites. This is a memorandum to the Librarians to begin their library operations with the primary focus of servicing those inmates with legal mandates. The recreation libraries will closed until which time more staff is available.

If you have any questions, please contact me at extension 5602.



V. Kahle
Supervisor of Correctional Education Programs
CVSP

Exhibit D5



State of California

California Department of Corrections and Rehabilitation

Memorandum

Date: November 8, 2006

To: All Inmates

Subject: **VIRAL GASTROENTERITIS**

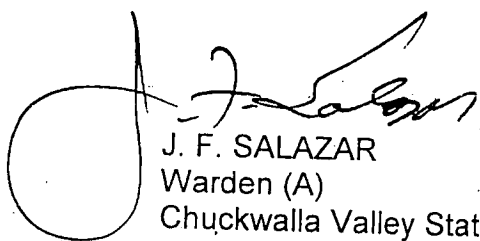
Recently there has been an unusual increase in the number of inmates exhibiting the signs of Viral Gastroenteritis. Viral Gastroenteritis is a temporary illness lasting approximately 24 to 48 hours.

The symptoms of Viral Gastroenteritis are nausea, vomiting, diarrhea and/or abdominal cramps.

Individuals experiencing the symptoms of Viral Gastroenteritis must increase fluids to remain hydrated, and treat the symptoms with over the counter medications.

Thorough and continuous hand washing, along with good hygiene are key elements in the prevention of spreading the virus.

If symptoms persist beyond 48 hours it is recommended medical intervention be obtained.



J. F. SALAZAR
Warden (A)
Chuckwalla Valley State Prison

Ex.

PROGRAM STATUS REPORT **PART B – PLAN OF OPERATION / STAFF & INMATE NOTIFICATION**

INSTITUTION CVSP	EFFECTIVE DATE OF PLAN 11/21/06 22, 23	PROGRAM STATUS NUMBER: CVP-COC-06-0020
<input type="checkbox"/> NORMAL PROGRAM <input checked="" type="checkbox"/> MODIFIED PROGRAM <input type="checkbox"/> LOCKDOWN <input type="checkbox"/> STATE OF EMERGENCY		
<input type="checkbox"/> INITIAL <input checked="" type="checkbox"/> UPDATE <input type="checkbox"/> CLOSURE		
RELATED INFORMATION (CHECK ALL THAT APPLY)		
AREA AFFECTED <input checked="" type="checkbox"/> INSTITUTION <input type="checkbox"/> FACILITY: _____ <input type="checkbox"/> HOUSING UNIT: _____ <input type="checkbox"/> VOCATION: _____ <input type="checkbox"/> EDUCATION: _____ <input type="checkbox"/> OTHER: _____	INMATES AFFECTED <input checked="" type="checkbox"/> ALL <input type="checkbox"/> BLACK <input type="checkbox"/> WHITE <input type="checkbox"/> HISPANIC <input type="checkbox"/> OTHER <input type="checkbox"/> _____	REASON <input type="checkbox"/> BATTERY <input type="checkbox"/> DEATH <input type="checkbox"/> RIOT / DISTURBANCE <input type="checkbox"/> GROUPING <input checked="" type="checkbox"/> OTHER: VIRAL_GASTROENTERITIS
MOVEMENT <input type="checkbox"/> NORMAL <input type="checkbox"/> ESCORT ALL MOVEMENT <input type="checkbox"/> UNCLOTHED BODY SEARCH PRIOR TO ESCORT <input checked="" type="checkbox"/> CONTROLLED MOVEMENT – one building at a time <input type="checkbox"/> OTHER: _____	WORKERS <input checked="" type="checkbox"/> CRITICAL WORKERS ONLY <input checked="" type="checkbox"/> CULINARY <input checked="" type="checkbox"/> CLERKS <input checked="" type="checkbox"/> VOCATION/EDUCATION – Identified inmates on the Critical Worker's List <input checked="" type="checkbox"/> CANTEEN <input checked="" type="checkbox"/> CLOTHING ROOM – Identified workers on the Critical Worker's List <input type="checkbox"/> RESTRICTED WORK PROGRAM <input checked="" type="checkbox"/> PORTERS <input type="checkbox"/> NO INMATE WORKERS	DAYROOM <input checked="" type="checkbox"/> NORMAL <input type="checkbox"/> NO DAYROOM ACTIVITIES <input type="checkbox"/> MODIFIED: _____ RECREATION <input type="checkbox"/> NORMAL <input type="checkbox"/> NO RECREATIONAL ACTIVITIES <input checked="" type="checkbox"/> MODIFIED: One Housing Unit at a time. One hour at a time.
FEEDING <input type="checkbox"/> NORMAL <input type="checkbox"/> CELL FEEDING <input checked="" type="checkbox"/> CONTROLLED FEEDING IN DINING ROOM <input checked="" type="checkbox"/> HOUSING UNIT/DORM AT A TIME (Dining Hall to be cleaned between each dorm). <input type="checkbox"/> DORM POD AT A TIME <input type="checkbox"/> TIER AT A TIME <input type="checkbox"/> HOUSING UNIT SECTION AT A TIME <input type="checkbox"/> SACK MEAL BREAKFAST <input type="checkbox"/> SACK MEAL LUNCH <input type="checkbox"/> SACK MEAL DINNER	SHOWERS <input checked="" type="checkbox"/> NORMAL <input type="checkbox"/> ESCORTED <input type="checkbox"/> ONE INMATE PER SHOWER – OWN TIER <input type="checkbox"/> CELL PARTNERS TOGETHER – OWN TIER <input type="checkbox"/> DORM SHOWERING BY GROUP <input type="checkbox"/> CRITICAL WORKERS ONLY <input type="checkbox"/> NO SHOWERS	CANTEEN <input type="checkbox"/> NORMAL <input type="checkbox"/> NO CANTEEN <input checked="" type="checkbox"/> MODIFIED: One Housing Unit at a time.
DUCATS <input type="checkbox"/> ALL DUCATS HONORED <input checked="" type="checkbox"/> MEDICAL DUCATS ONLY <input type="checkbox"/> CLASSIFICATION DUCATS <input type="checkbox"/> PRIORITY DUCATS ONLY	MEDICAL <input type="checkbox"/> NORMAL MEDICAL PROGRAM <input checked="" type="checkbox"/> PRIORITY DUCATS ONLY <input type="checkbox"/> MTA CONDUCT ROUNDS IN UNITS <input type="checkbox"/> INMATES ESCORTED TO SICK CALL <input type="checkbox"/> EMERGENCY MEDICAL ONLY <input type="checkbox"/> OTHER: _____	PACKAGES <input type="checkbox"/> NORMAL <input type="checkbox"/> NO PACKAGES <input checked="" type="checkbox"/> MODIFIED: Second and Third Watch. One Housing Unit at a time. Facility A will be processed on the yard.
VISITING <input type="checkbox"/> NORMAL VISITING <input type="checkbox"/> NON-CONTACT ONLY <input checked="" type="checkbox"/> NO VISITING – No Family Visiting <input type="checkbox"/> OTHER: _____	LEGAL LIBRARY <input type="checkbox"/> NORMAL <input checked="" type="checkbox"/> APPROVED COURT DEADLINES	PHONE CALLS <input checked="" type="checkbox"/> NORMAL <input type="checkbox"/> NO PHONE CALLS <i>Ex.</i> <input type="checkbox"/> MODIFIED: _____
		RELIGIOUS SERVICES <input type="checkbox"/> NORMAL <input checked="" type="checkbox"/> NO RELIGIOUS SERVICES <input type="checkbox"/> MODIFIED: _____

REMARKS:

The Program Modification initiated on Thursday, November 9, 2006, was reviewed by CVSP Administrative and Medical Staff on Monday, November 20, 2006. All Facilities will remain on a Modified Program. The feeding and yard program will continue to be one Housing Unit at a time. The dining hall will be cleaned between each Housing Unit. R&R will continue delivery of packages to inmates. Yard Canteen and Laundry will provide services for the Housing Unit on the yard at the time. Work Crew #24 will be released to clean the out grounds. Administrative Staff will evaluate the status of the institution on Wednesday, November 22, 2006.

Bldg. D-10

State of California

California Department of Corrections and Rehabilitation

Memorandum

Date: March 3, 2008

To : All Inmates

Subject: FLU

Recently there has been an unusual increase in the number of inmates exhibiting the signs of the flu. The flu is a temporary illness lasting approximately 24 to 48 hours.

The symptoms of the flu are nausea, vomiting, fever, coughing and/or headaches.

Individuals experiencing the symptoms of the flu must increase fluids to remain hydrated, and treat the symptoms with over the counter medications.

Thorough and continuous hand washing, along with good hygiene are key elements in the prevention of spreading the flu.

If symptoms persist beyond 48 hours, medical intervention is recommended.



J. F. SALAZAR

Warden

Chuckwalla Valley State Prison

Memorandum

Date : March 10, 2008

To : ALL CVSP INMATES

Subject: INFLUENZA VACCINE


The medical staff at Chuckawalla Valley State Prison will be conducting a Flu Vaccine (FLU SHOT) Clinic tomorrow March 11, 2008 after breakfast. We will be offering the FLU Vaccine to all inmates.

Attached you will find:

- Influenza Vaccine Fact Sheet
- Influenza Vaccine Consent Form

Please read the attached literature and sign the consent indicating whether you are interested in receiving or declining the vaccine.

The medical staff will be available to answer any questions you should have during the Flu Clinic.


R. ANG MD
Chief Physician and Surgeon
Chuckawalla Valley State Prison

Exhibits

E – E56 These Correspondence Letters are between Petitioner and the Courts, Defense Attorneys, District Attorneys, State Bar, Police Department, California Innocence Project, Department of Justice, and Locating Witnesses

These Correspondence Letters are from 3-17-96 to present day, 3-30-08

Note: Petitioner has over one hundred (100) letters pertaining to the instant kidnap case and also of prior conviction cases. Petitioner herein submits 56 letters, half (½) size due to bulkiness.

Handy Horiye
Attorney At Law

2420 University Avenue
San Diego, California 92104
(619) 584-1523

March 7, 1996

Mr. Leo Salceda
J-90933
480 Alta Road
San Diego, CA 92179

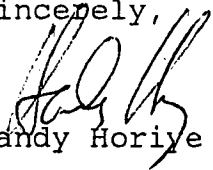
Dear Mr. Salceda,

I have just been appointed to represent you in your criminal appeal. I do not have the transcripts yet so I do not know what issues can be raised in the appeal, although I believe there are some Three Strikes issues. After I have read the transcripts, I plan to talk to your trial attorney.

The appeal is slow and make take over a year. There are only a few steps in the appeal. For these reasons, I will not write to you often. Please write whenever you have any questions or comments. Please remember that any issue raised in the appeal must be based on the record. That is, it must be something that occurred in court or was brought to the attention of the judge and was reported. If you write about issues, please write soon so I will be able to consider them for the opening brief.

Please do not discuss the offenses involved in the case with anyone, especially other inmates. Anything you say can be used against you if there is a retrial. Thank you.

Sincerely,


Handy Horiye

gather

①

Handy Horiye
 Attorney At Law
 2420 University Avenue
 San Diego, California 92104
 (619) 584-1523

7:30 A.M. (3) 36 oz.
 12:00 P.M. (1) 16 oz.
 12:30 P.M. (1) 40 oz.
 1:30 P.M. (1) 16 oz.
 2:00 P.M. (1) 16 oz.
 2:30 P.M. (1) 16 oz.
 4:30 P.M. (3) 36 oz.
 176.02.
 APPS. 5:10 14.8. Books
 WU food.

August 26, 1997

Mr. Leo Salceda
 J90933
 44750 60th Street West
 Lancaster, CA 93535

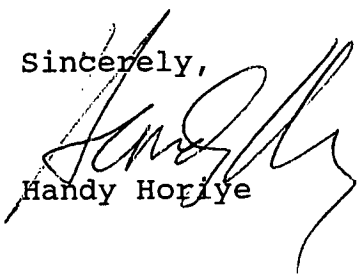
Dear Mr. Salceda,

I have again been appointed to handle your criminal appeal. I was sorry to hear you did not get any benefit from your resentencing. I do not have the record yet so I do not know what issues we can raise in the appeal. On resentencing, the number of issues are very limited. After I read the record, I plan to talk to trial counsel.

As you know the appeal is slow and may take a year. I will not write you often. Please write whenever you have any questions or comments. If you write about issues, please write soon so I can consider the issues for the appeal. Remember that the issues must be based on the record.

Although this appeal is involved only with sentencing, please do not talk to anyone about the offenses in this case, especially to other inmates. Anything you say can be used against you. Thank you.

Sincerely,


 Handy Horiye

D

Handy Horiye
Attorney At Law
2420 University Avenue
San Diego, California 92104
(619) 584-1523

March 26, 1998

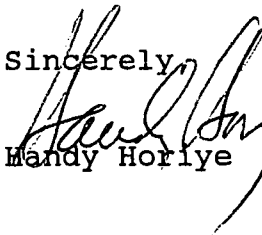
Mr. Leovardo Salceda
J-90933 D4-202
44750 60th Street West
Lancaster, CA 935367

Dear Mr. Salceda,

By now you should have received the opinion of the Court of Appeal directly from the court. The Court rejected our issues except for prison credits. There is nothing else I can do for you and I do not intend to pursue your case any further. I am sending you an information sheet in case you want to file a petition for review. I do not believe a petition would be granted. Otherwise, I would file one for you.

I still have your transcripts. I will send them to you when the appeal is over in about 2 months. You do not need the transcripts to file a petition for review. You can use the facts and issue raised in the briefs I sent you. Good luck.

Sincerely,


Handy Horiye

encl. 1

B6

Handy Horiye
Attorney At Law
2420 University Avenue
San Diego, California 92104
(619) 584-1523

Leovard Salceda, # J - 90933
California State Prison, Lancaster
44750 "60th" Street West
Lancaster, California 93536

In Pro Per

CALIFORNIA SUPREME COURT

THE PEOPLE OF THE STATE)
OF CALIFORNIA,)
Plaintiff,)
v.)
LEOVARDO SALCEDA,)
Defendant.)

No. D 025258

REQUEST FOR ORDER
EXTENDING TIME
TO FILE PETITION FOR
REVIEW

March 26, 1998

Mr. Leovardo Salceda
J-90933 D4-202
44750 60th Street West
Lancaster, CA 935367

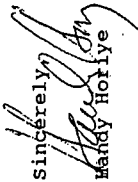
Dear Mr. Salceda,

By now you should have received the opinion of the Court of Appeal directly from the court. The Court rejected our issues except for prison credits. There is nothing else I can do for you and I do not intend to pursue your case any further. I am sending you an information sheet in case you want to file a petition for review. I do not believe a petition would be granted. Otherwise, I would file one for you.

To the Chief Justice, I, LEOVARDO SALCEDA, request an extension of 30 days to and including January 3, 1997 to file my petition for review. This motion is based on appellant not having enough time to prepare for formulation of my petition for review in the CALIFORNIA SUPREME COURT.


My appeal attorney dropped my case, and I am a layman of the law. I was not aware of the California Rules of Court. Petitioner respectfully asks that the court grant an extension of 30 days to allow preparation of the petition.

I still have your transcripts. I will send them to you when the appeal is over in about 2 months. You do not need the transcripts to file a petition for review. You can use the facts and issue raised in the briefs I sent you. Good luck.

Sincerely,

Handy Horiye

encl. 1

Respectfully submitted,


Leovardo Salceda,
Petitioner in Pro Per.

Gerardo Salceda J-90933
DS/217
44750 60TH STREET WEST
LANCASTER, CA. 93536

December 20, 1999

Mr. Daniel Mangarin
110 West C Street, Ste. 1103
San Diego, Ca. 92101

Re: Case No. SCD 112436

Dear Mr. Mangarin,

I would like to ask if you can please send me any
and all my legal papers, the trial transcripts so
that I can help myself in my habeas corpus.
I would appreciate it very much. Thank you sir.

Respectfully,
Gerardo Salceda

Ex.

LEONARDO SALCEDA #J-90933

DS-215 LOW
44750 "60TH" STREET WEST
LANCASTER, CA. 93536

OCTOBER 5, 1998

SUPERIOR COURT OF CALIFORNIA
220 W. BROADWAY
SAN DIEGO, CA. 92101

DEAR CLERK OF THE COURT,

I AM TRYING TO GET ALL OF MY RECORDS FOR MY CASE
IN 1989, CASE #CR105783. POLICE REPORTS, PRELIMINARY
HEARING TRANSCRIPTS, REPORTERS TRANSCRIPTS, AND ANY
AND ALL OTHER LEGAL PAPERS IN MY CASE. FROM
BEGINNING OF MY CASE TO SENTENCING. I AM TRY
TO HELP MYSELF FILE A HABEAS CORPUS AND NEED ALL
COURT RECORDS AND DOCUMENTS TO PROVE MY CLAIMS.

ENCLOSED IS A SELF ADDRESSED STAMPED ENVELOPE
IF YOU CAN PLEASE RESPOND. THANK YOU VERY MUCH
FOR YOUR TIME AND CONCERN IN THIS MATTER.

RESPECTFULLY,
Gerardo Salceda

Ex.

RECEIVED

MAY 31 2000

Leovardo Salceda J-90933
05/217
44750 60th Street West
Lancaster, Ca. 93536

May 24, 2000

Mr. Kenneth E. Martone
Clerk of the Superior Court
220 W. Broadway
San Diego, Ca. 92101

ATTN: RECORDS SPECIALIST

Re: Case No. CR105783

I received your letter dated March 14, 2000. I do not have any legal documents that would be helpful to you. You had two appeals. One appeal was from the conviction. On appeal, the court remanded for a new sentencing hearing. You appealed from the resentencing. This was the second appeal.

After the first appeal and you were going to be resentenced, I sent all the material to your trial attorney. I sent them to Daniel Mangarin, Alternate Deputy Public Defender, 110 West C Street, Ste. 1100. After the second appeal, I sent you the transcripts in that appeal. They were two short transcripts.

I do not have any documents that you mentioned. I gathered by the envelope you enclosed, you did not expect much material. Good luck.

Sincerely,

Handy Horiye

In 1989 I had a trial court in the above mentioned case. What I would like to request is any and all paper work leading up to my court trial. The court reporter's transcripts, Clerk's transcripts, the indictment, information, or accusation with any amendments, and demurrer, any motion by the defense attorney and the district attorney with supporting and opposing memoranda and affidavits, all minutes of the court relating to the action, the verdict, the judgment, abstract of judgment-commitment, all written communications, formal or informal between the defense attorney and the district attorney, police reports, arraignment in the municipal court, superior court, preliminary examination, probation officers report, any oral proceedings taken on the trial of the cause, and proceedings at the time of sentencing.

I do not have reliable family or friends who will assist me in trying to help me get my record in the above mentioned case. Currently I am incarcerated at Lancaster Prison. In doing some research I learned in California Rules of Court (State) I could write a written request to the Records Specialist where my case was heard. I am indigent, however I do have a self supporting job in the prison, where I get paid about \$16.00 (sixteen dollars) a month, and I can help myself pay for my legal papers if I need to. I have enclosed a stamped self addressed envelope for you convenience if you could please respond to this letter.

Thank you very much for your time and concern in this matter it is greatly appreciated.

Sincerely,

Leovardo Salceda
May 24, 2000

cc: L.S.

41 pages to entire case file

Ex

Ex

COPY

March 17, 2000

Mr. Leovardo Salcedo
J-90933 05/217
44750 60th Street West
Lancaster, CA 93536

Dear Mr. Salcedo,

Leonardo Salceda J-90933
05/21/7
44750 60TH ST WEST
Lanaster, Ca. 93536

May 15, 2000

Mr. Daniel J. Mangarin
110 West "C" Street, Suite 1100
San Diego, Ca. 92101

Re Case No. SCD 112436 (1995)
and Court of Appeal, 1st App. Dist., Div. 1
Case No. 0025258 and 0029086
and Case No. CR105783 (1989)
Case No. CR104382 (1993)

Dear Mr. Mangarin,

Several months ago I sent you a letter requesting all my transcripts, police reports, pretrial hearing, motions filed in my case Case No. SCD 112436, and all work product in my case.

And if you could please help me get all my transcripts, police reports, court trial transcripts on case no. CR 105783 (1989) sentencing transcripts, commitment orders etc. I also have Case No. CR 104382 that I would like to ask you if you could also help me get all work product, arrest reports, commitment orders, abstracts of judgment etc.

Thank you very much for your time and concern in these matters.

Respectfully,
Leonardo Salceda

Ex.

Leonardo Salceda J-90933
05/21/7
44750 60th Street West
Lanaster, Ca. 93536

May 31, 2000

Mr. Daniel Mangarin
Alameda Public Defenders Office
110 West "C" Street, Suite 1100
San Diego, Ca. 92101

Re: Case No. SCD 112436

Dear Mr. Mangarin,

I have written you respectfully requesting if you could please send me any and all my transcripts in my trial, motions, arrest reports, everything that is my files in your office, if you can not send me the originals can you please send me copies.

The next step is a writ of mandate, letters to the bar association, to the trial court. Would you please send me my transcripts and everything else in my case mentioned above.

I will wait another two weeks for at least a response. Thank you very much for your time and concern in this matter.

Leonardo Salceda May 31, 2000
Leonardo Salceda.

cc. L.S.

Ex.

Leovardo Salceda J-90933
05/217
44750 60th Street West
Lancaster, Ca. 93536

F **I** **L** **E** **D**
STEPHEN THUNBERG
Clerk of the Superior Court

JUN 05 2000

By: A. Gerba, Deputy

May 25, 2000

A. Gerba
Clerk of the Court
220 W. Broadway
San Diego, Ca. 92101

Re: Case No. SCD 112436

Dear A. Gerba,

In 1995, I had a jury trial in the court room of the Honorable Judge Amos. I would like to respectfully request the trial transcripts in the above mentioned case. I do not have any of my trial transcripts in this case. And then when I was sentenced in this case, I was sent to prison. On appeal I was sent back before the Honorable Judge Amos for consideration in a sentence reduction. I also would like to respectfully request the transcripts in these court proceedings. The same case.

If it is possible could you please send me all of the court reporters transcripts, clerk's transcripts, the indictment, information, or accusation with any amendments, and demurrer, any motion by the defense attorney's and the district attorney's with supporting and opposing memoranda and affidavits, all minutes of the court relating to the action, the verdict, the judgment, abstract of judgment-commitment, all written communications, formal or informal between the defense attorney and the district attorney, police reports, arraignment in the municipal court, superior court, preliminary hearing, any oral proceeding taken on the trial of the cause, proceedings at the time of sentencing, all written instructions given or refused indicating on each instruction the party requesting it, motions by the defendant, all written communications, formal or informal, between the court and the jury or any individual jurors, and proceedings on voir dire examinations, and any other legal papers pertaining to my case.

I have made various attempts with my trial attorney, Mr. Daniel Magarin, and my appellate attorney, Mr. Handy Horiye, respectfully asking them to please send my legal paper work "any and all" pertaining to my case. I have not received my paper work.

I have a self supporting job in the prison. I get paid about \$16.00 (sixteen dollars) a month, so if I need to buy my legal paper work in my

217

(1)

Ex.

case I will. Aside from this I am indigent. I have enclosed a stamped self addressed envelope if you could please respond to this letter.

Thank you very much for your time and any consideration you render on this matter its greatly appreciated.

Leovardo Salceda May 25, 2000
Leovardo Salceda.

cc: L.S.

(7)

Ex.

THE SUPERIOR COURT

San Diego Judicial District
County Courthouse
330 West Broadway
San Diego, California 92101-3877
(619) 685-6145

Judge
E. Mac Amos

Clerk
Andrea Gerba

June 7, 2000

TO: Leovardo Salceda J-90933
D5/217
44750 60th St. W.
Lancaster, Ca. 93536

FROM: Andrea Gerba, Deputy Clerk
Dept. 70

RE: Peo. v. Leovardo Salceda

The Court is in receipt of your letter dated May 25, 2000 requesting documents in regards to your case. However, the Court requires that the counsel who has been representing you in this case must make the request.

You may wish to make another attempt to contact your trial attorney Daniel Mangarin or the appellate attorney, Handy Horiye. The Court will forward a copy of this letter and your letter dated May 25, 2000 to both counsel on your behalf.

Sincerely,

Andrea Gerba

Andrea Gerba
Deputy Clerk
San Diego Superior Court

Cc: Handy Horiye
Appellate Defenders
Daniel Mangarin

TIMOTHY A. CHANDLER
ALTERNATE PUBLIC DEFENDER
DANIEL J. MANGARIN
CHIEF DEPUTY

SANDRA K. HUFF
CHIEF INVESTIGATOR

County of San Diego

DEPARTMENT OF THE ALTERNATE PUBLIC DEFENDER
110 West "C" Street, Suite 1100, San Diego, CA 92101-3907
(619) 236-2523 FAX (619) 237-9247

July 28, 2000

Leovardo Salceda
D5/217
44750 60th St. W.
Lancaster, California 93536

Re: People v. Leovardo Salceda

Dear Leo,

I am sending the final transcripts which I received from your Appellate Attorney Handy Horiye.

Hope things are going well for you. Take care.

Sincerely,

Daniel J. Mangarin

Daniel J. Mangarin
Chief Trial Deputy

Enclosure
DJM/ssb

Ex.

Ex.



County of San Diego

DEPARTMENT OF THE PUBLIC DEFENDER

STEVEN J. CARROLL
PUBLIC DEFENDER

CENTRAL OFFICE
233 "A" Street
San Diego, CA 92101-4009
(619) 338-4700
FAX (619) 338-4811

NORTH COUNTY BRANCH
4010 La Jolla Village Drive, Suite 200
San Diego, CA 92037-8927
(619) 441-4000
FAX (619) 441-4000

SOUTH BAY BRANCH
705 Third Avenue, Suite 100
Chula Vista, CA 91910-8842
(619) 496-2001
FAX (619) 496-2039

Leovardo Salceda # J-90933
D5/217
44750 60th Street West

March 14, 2000

Mr. William Youmans
Public Defender
233 "A" Street
San Diego, Ca. 92101

Re: Case No. CR105783 (Superior Court 1989, Court Trial)
DA 86262101
F 122969

Dear Mr. Youmans,

I respectfully would like to ask if you could please send me copies of "any and all" legal documents pertaining to my previous case mentioned above. You were my lawyer.

Case No. CR105783 (Court Trial)
date of arrest, July 3, 1989
date of conviction, October 2, 1989
date of sentencing, November 2, 1989
Honorable Judge Mudd, department 034
District Attorney, L. Aragon
Defense Attorney, Mr. Youmans

The Reporters and Clerk's transcripts of all proceedings for the date of arrest until sentencing and everything inbetween. Typewritten transcripts of all court appearances leading up to trial, typewritten transcripts of trial, typewritten transcripts to consist of minute orders, abstract of judgement, commitment order, etc., points and authorities and declarations, motions by the district attorney, motions by you, and motions by the court.

Unfortunately Mr. Youmans I am indigent and unable to buy my court records. I have enclosed a stamped self addressed envelope for your convenience. Thank you very much for your time and concern in this matter, it is greatly appreciated.

Leovardo Salceda
Leovardo Salceda.

April 28, 2000

Leovardo Salceda, #J-90933
D5/217
44750 60th Street West
Lancaster, CA 91536

Reference: People v Leovardo Salceda
Superior Court Case #CR105783

Dear Mr. Salceda:

The Public Defender's Office received your letter addressed to Mr. William Youmans who is now deceased.

I have reviewed your file and am sending you a copy of the "preliminary hearing transcript" and the probation report. There are no transcripts of court proceedings since there was no trial.

I assume you re-offended after this case and after the 3 strikes law was enacted. It appears your original sentence of 4 years in prison was a very good deal at the time based on the expectation you would not re-offend. Unfortunately, the law of 3 strikes severely punishes repeat offenders beyond anyone's original expectations.

Sincerely,

Alex M. Loebig

Alex M. Loebig
Supervising Attorney

AML:cc

Enclosures

Ex.

Ex.

Leovardo Salceda J 90933
 4750 60th Street West
 Lancaster, CA 93536

June 12, 2001

Mr. Thomas Carnessale, Esq.
 Public Defenders Office
 233 "A" Street
 San Diego, CA 92101

Re: Case no. CR140382

Dear Mr. Carnessale,

Respectfully, I would like to ask you if you could please send me copies of "any and all" legal documents pertaining to my case mentioned above. You were my lawyer.

Date of arrest: June 20, 1993, San Diego Police Department,

Date of arraignment: July 2, 1993, case F158003, DA P31829,
 before Hon. Judge Jay M. Bloom, clerk DC,
 reporter, E. Henderson

Date of conviction: July 14, 1993, muni readiness conf., Dept. PD2,
 before Hon. Joan P. Weber, clerk T. Dusi, reporter L. Daniels,

Date of sentence: August 11, 1993, probation and sentence,
 before Hon. Joan P. Weber, clerk T. Dusi, reporter D. Gehhart

Could you please provide a copy of the court transcripts, both the minute orders and the actual transcripts for arraignment, the guilty plea in open court, and sentencing in open court. If I need to pay for these legal papers, please notify me and I will sign a trust withdraw to pay for these legal papers.

I have enclosed a stamped self addressed envelope if you could please respond at your earliest convenience. Thank you very much for your time and concern.

Sincerely,

Leovardo Salceda
 Leovardo Salceda

Ex.

Leovardo Salceda # J-90933
 05/217
 44750 60th Street West
 Lancaster, Ca. 93536

March 14, 2000

Mr. Thomas Carnessale
 Public Defenders Office
 233 "A" Street
 San Diego, Ca. 92101

Re: Case No. CR140382 (Guilty plea)
 DA P3182901
 F 158003

Dear Mr. Carnessale,

I respectfully would like to ask if you could please send me copies of "any and all" legal documents pertaining to my previous case mentioned above. You were my lawyer.

Case No. CR104382 (Guilty plea)
 date of arrest, June 30, 1993
 date of conviction, July 14, 1993
 date of sentence, August 11, 1993
 Honorable Judge Weber, department M15
 District Attorney, K. Eppel
 Public Defender, Mr. Carnessale

The Reporter's and Clerk's transcripts of all proceedings for the date of arrest until sentencing and everything inbetween. Typewritten transcripts of all court appearances leading up to the guilty plea and sentencing, and typewritten transcripts to consist of minute order, abstract of judgement, commitment order, etc., points and authorities and declarations, motions by the district attorney, motions by you, and motions by the court.

Unfortunately Mr. Carnessale I am indigent and unable to buy my court records. I have enclosed a stamped self addressed envelope for your convenience. Thank you for your time and concern in this matter, it is greatly appreciated.

Leovardo Salceda 3/14/00
 Leovardo Salceda.

Ex.

Leovardo Salceda J-90933
D5/217
44750 60th Street West
Lancaster, CA 93536

In Propria Persona

August 24, 2000

Attn.: L. Brown, Clerk Of The Superior Court,
Criminal Desk, Central Records,
Central Court
P.O. Box 120128
220 W. Broadway
San Diego, CA 92112-0128

Re: Case no. CR105783, (year 1989)

Dear Clerk Of The Superior Court,

On number "2" of the Jury Waiver enclosed it reads:

"That he does desire to waive and give up his right to trial by jury and that he does desire to have this court sitting without a jury determine whether he is guilty or not of the offence(s) for which he charged in the above-entitled criminal action;"

Respectfully I would like to request to buy those "court trial" transcripts in case no. CR105783. Could you please give me an estimate of the cost to buy the entire record in the above-mentioned case. Enclosed are a copy of the jury waiver, judgment-commitment, and probation-hear sentencing, indicating I did have a court trial.

On December 29, 1995, I filed a motion to strike prior conviction in case no. CR105783. However, back then I did not have the entire record in case CR105783, the arraignment hearing, the readiness hearing, motion's hearing's, court trial transcripts, exhibits, guilty finding and/or verdict forms, and sentencing hearing transcripts. I filed the motion with only my memory of the case, however, now I would like to buy the entire case record for my appeal. I am In Propria Persona, layman of the law, but I would appreciate if you could provide me with the estimate of how much it will cost for the above-mentioned "entire case" from arrest report everything in between up until the court trial and sentencing.

RECEIVED

AUG 24 2000

RECEIVED

JAN 16 2001

I am preparing a hebeas corpus and need the entire record to do so. I am not trying to be complicated, but this is very important to me and my case. Thank you very much for your time, assistance, and concern in this matter. It is greatly appreciated.

I declare under penalty under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

Executed this 21st day of August, 2000, at Lancaster, California.

Respectfully,

Leovardo Salceda August 21, 2000
Leovardo Salceda,
In Propria Persona.

Ex.

Ex.

✓ FEB 13 2009
CENTRAL RECORDS RM 042
SAN DIEGO SUPERIOR COURT
P.O. Box 120128
San Diego, CA 92112-4704
February 4, 2001

RECEIVED

FEB 09 2001

Re: Case No. CR105783

Superior Court of California,
County of San Diego, Central Records,
Clerks - Court Reporters - Transcripts
220 W. Broadway
San Diego, CA 92101

Dear Clerk of the Court,

I would like to buy any and all transcripts that I had court proceedings for in the above mentioned case. These are the Dates, Departments, Honorable Judges, Clerks, and Court Reporters - Stenographers that these court proceedings happened in.

Would you please give me an estimate of how much it will cost for the following requested transcripts. Through the trust office here I could sign a trust withdrawal and have the money sent to pay for the costs of the transcripts. (In money order or check.) Or for example I could send \$50.00; the cost for the transcripts I requested would be deducted, or I would notified the cost is more than \$50.00.

*) On July 06, 1989, in Dept. FA, before Honorable Judge John M. Thompson, Clerk - C. Velling, Reporter/Stenographer - K. Crowder, in People v. Leovardo Salceda, Case No. CR105783, (case F122969, DA B6262101),

*) On July 11, 1989, in Dept. FA, before Honorable Judge John M. Thompson, Clerk - R. Salas, Reporter/Stenographer - Lynn Peters, in People v. Leovardo Salceda, Case No. CR105783, (case F122969, DA B6262101),

*) On July 20, 1989, in Dept. 9, before Honorable Judge Nicholas Kasimatis, Clerk - Vivian Hall, Reporter/Stenographer - Peggy Harper, in People v. Leovardo Salceda, Case No. CR105783, (case F122969, DA B6262101),

*) On August 03, 1989, in Dept. 009, before Honorable Judge Herbert J. Exarhos, Clerk - Edith Bixel, Reporter/Stenographer - Bill Neilson, in People v. Leovardo Salceda, Case No. CR105783, (DA B6262101),

*) On September 13, 1989, in Dept. 008, before Honorable Judge Andrew G. Wager, Clerk - T. Wallace, Reporter/Stenographer - Caryl Sadler, in People v. Leovardo Salceda, Case No. CR 105783, (DA B6262101),

Page 1 of 2

Ex.

*) On September 20, 1989, in Dept. 009, before Honorable Judge Herbert J. Exarhos, Clerk - Edith Bixel, Reporter/Stenographer - Jill Mikrut, in People v. Leovardo Salceda, Case No. CR105783, (DA B6262101),

*) On September 28, 1989, in Dept. 009, before Honorable Judge Herbert J. Exarhos, Clerk - Carol Bonavolant, Reporter/Stenographer - Jill Mikrut, in People v. Leovardo Salceda, Case No. CR 105783, (DA B6262101),

*) On October 02, 1989, in Dept. 009, before Honorable Judge Herbert J. Exarhos, Clerk - Chris Del Toro, Reporter/Stenographer - Jill Mikrut, in People v. Leovardo Salceda, Case No. CR105783, (DA B6262101),

*) On October 02, 1989, in Dept. 34, before Honorable Judge William D. Mudd, Clerk - K. Bircumshaw, Reporter/Stenographer - D. Moody, in People v. Leovardo Sal Case No. CR 105783, (DA B6262101),

*) On October 03, 1989, in Dept. 34, before Honorable Judge William D. Mudd, Clerk - Peggy Sirna, Reporter/Stenographer - D. Moody, in People v. Leovardo Salceda, Case No. CR 105783, (DA B6262101),

*) On November 02, 1989, in Dept. 034, before Honorable Judge William D. Mudd, Clerk - Peggy Sirna, Reporter/Stenographer - C. Franklin, in People v. Leovardo Salceda, Case No. CR 105783, (DA B6262101)

Your time and concern in this matter is greatly appreciated. I have enclosed a stamped self addressed envelope for your convenience. Thank you very much.

Respectfully,

Leovardo Salceda 2/4/01
Leovardo Salceda.

Page 2 of 2

Ex.

Superior Court of California
County of San Diego

CENTRAL COURTHOUSE
220 W. BROADWAY
P.O. BOX 128
SAN DIEGO, CA
92112-4104



February 14, 2001

Leovardo Salceda J-90933
DS/221
44750 60th Street West
Lancaster, CA 93536

Re: Case # CR105783
(Year 1989)

Dear Mr. Salceda,

This letter is with regard to your request for several transcripts from 1989. Unfortunately, criminal steno notes are destroyed after ten years in storage. Therefore, the reporters noted in your letter will not be able to produce any new transcripts from the dates indicated.

Thank you,

E. Neal

E. Neal
Court Reporting Services

Ex.

Cathy, Willis Bell, Official Court Reporter
Office of Court Reporting Services
220 West Broadway
San Diego, CA 92101

August 16, 2001

Leovardo Salceda J-90933
FB - B5 - 128
44750 60th Street West
Lancaster, CA 93536

RE: Case no. CR140382

Dear Mr. Salceda,

Enclosed is the copy of the transcript you requested and that I prepared for Donna Gebhart for the sentencing proceedings held on August 11, 1993. The original of said transcript has been filed in the court file. There was an overpayment of \$2.60, which I am enclosing, in cash, as your refund.

As reflected in your original request, the other two proceedings were reported by different court reporters, Evie Henderson and Leonard Daniels. They have been notified of your request and should have contacted you already. I do not have the authority or capacity to transcribe their notes for you. I have notified the Office of Court Reporting Services that you have not received the transcripts from them, and they said they would check with the reporters in question. They said if you have any further questions or concerns, Ms. Henderson and Mr. Daniels can be reached through the Office of Court Reporting Services at 619-531-3964 or contacted by mail by addressing your request to:

Office of Court Reporting Services
San Diego Superior Court
220 W. Broadway
San Diego, CA 92101

Sincerely,

Cathy Willis Bell

Cathy Willis Bell
Official Court Reporter

Ex.

Superior Court of California
County of San Diego



☒ CENTRAL COURT
PO BOX 120128
220 W. BROADWAY
SAN DIEGO, CA
92112-0128
Records Division
(619) 531-3151
Central Records
(619) 531-3244
Probate Services
(619) 685-6877
Criminal Records
(619) 685-8226

☐ SOUTH BAY
500 3RD AVE.
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91910-5694
Records Division
(619) 691-4780

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EL CAJON, CA
92020-3913
Records Division
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325 S. MELROSE DR.
SUITE 100
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92083-8627
Records Division
(760) 940-4442

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500 3RD AVE.
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91910-5694
Records Division
(619) 691-4780

☒ HALL OF JUSTICE
PO BOX 120128
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SAN DIEGO, CA
92112-0128
Records Division
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Central Records
(619) 531-3244
Probate Services
(619) 685-6877
Criminal Records
(619) 685-8226

☐ MADGE BRADLEY
1409 4TH AVE
SAN DIEGO, CA
92101-3105
Probate Services
(619) 238-3761
Records Division
(619) 238-1089

☐ NORTH COUNTY
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VISTA, CA
92083-8627
Records Division
(760) 940-4442

☐ EAST COUNTY
250 E. MAIN ST.
EL CAJON, CA
92020-3913
Records Division
(619) 441-4822

☐ SOUTH COUNTY
500 3RD AVE.
CHULA VISTA, CA
91910-5694
Records Division
(619) 691-4780

CASE NUMBER CR105783

THE ATTACHED DOCUMENTS ARE BEING RETURNED BECAUSE:

Insufficient/no fee submitted. If you believe you are eligible for a fee waiver, you may submit an Application for Waiver of Court Fees and Costs and return it with your correspondence.

Check is not signed.

County ordinance forbids acceptance of personal checks not drawn on a California bank. You may submit a cashier's check, money order or company check.

Check must have a preprinted name and full address, not a P.O. box. You may submit a cashier's check or money order.

Information given is not sufficient. Please provide: a. Full names of parties involved; b. Approximate year action was filed or years to search; c. Case number, if available; d. Name(s) of index(es) to search; Plaintiff/Defendant/Both; Criminal; Domestic; Probate, Mental Health, Habeas Corpus, All. For criminal cases AKA's and parties' dates of birth are needed.

As of this date there is no record of the final judgment.

Please clarify documents needed. Information given is insufficient to make determination.

Other: Please send 22.50 on complete the attached
you need to contact the court reporter at 619-531-3100 to get transcript.

COPIES (26831)
CERTIFICATION (26833.1)
COMPARING TO ORIGINAL (26837.1)
EXEMPLIFICATION (26839)
CERTIFIED COPIES OF DISSOLUTION JUDGMENT (26832.1(a))
SEARCHING FOR A NAME/CASE NUMBER, ETC. (26854)
PROCESSING BAIL BOND EXONERATION SLIPS (26836.1)

Please submit check/money order/cashier's check in the amount of \$22.50 for 45pgs

Date: NOV 01 2000 by V. Grier Deputy
CLERK OF THE SUPERIOR COURT

PLEASE SUBMIT SELF-ADDRESSED STAMPED ENVELOPE FOR RETURN OF COPIES.
PLEASE RETURN THIS FORM WITH YOUR CORRESPONDENCE

Ex.

Superior Court of California
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Records Division
(619) 691-4780

CASE NUMBER CR105783

THE ATTACHED DOCUMENTS ARE BEING RETURNED BECAUSE:

Insufficient/no fee submitted. If you believe you are eligible for a fee waiver, you may submit an Application for Waiver of Court Fees and Costs and return it with your correspondence.

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County ordinance forbids acceptance of personal checks not drawn on a California bank. You may submit a cashier's check, money order or company check.

Check must have a preprinted name and full address, not a P.O. box. You may submit a cashier's check or money order.

Information given is not sufficient. Please provide: a. Full names of parties involved; b. Approximate year action was filed or years to search; c. Case number, if available; d. Name(s) of index(es) to search; Plaintiff/Defendant/Both; Criminal; Domestic; Probate, Mental Health, Habeas Corpus, All. For criminal cases AKA's and parties' dates of birth are needed.

As of this date there is no record of the final judgment.

Please clarify documents needed. Information given is insufficient to make determination.

Other: As was stated in the previous letter to obtain the transcripts
Other contact the Court Reporters at 619-531-3964
Enclosed is a copy of your file as requested. 685-6220
FEES: ESTABLISHED BY GOVERNMENT CODE SECTIONS INDICATED, ARE AS FOLLOWS:

COPIES (26831)
CERTIFICATION (26833.1)
COMPARING TO ORIGINAL (26837.1)
EXEMPLIFICATION (26839)
CERTIFIED COPIES OF DISSOLUTION JUDGMENT (26832.1(a))
SEARCHING FOR A NAME/CASE NUMBER, ETC. (26854)
PROCESSING BAIL BOND EXONERATION SLIPS (26836.1)

Please submit check/money order/cashier's check in the amount of \$

Date: JAN 22 2001 by R. Williamson Deputy
CLERK OF THE SUPERIOR COURT

PLEASE SUBMIT SELF-ADDRESSED STAMPED ENVELOPE FOR RETURN OF COPIES.
PLEASE RETURN THIS FORM WITH YOUR CORRESPONDENCE

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Superior Court of California
County of San Diego



Superior Court of California
County of San Diego



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Records Division
(619) 441-4461

☐ NORTH COUNTY
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92083-6643
Records Division
(619) 726-3555

☐ SOUTH COUNTY
500 3RD AVE
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(619) 591-4790

☐ JUDGE BRADLEY
FAMILY COURT
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Records Division
(619) 236-1089

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COURTHOUSE
PO BOX 120128
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92112-0128
Central Records
(619) 531-3244
Criminal Records
(619) 685-6220

CASE NUMBER CR105783

THE ATTACHED DOCUMENTS ARE BEING RETURNED BECAUSE:

☒ Insufficient/no fee submitted. If you believe you are eligible for a fee waiver, you may submit an Application for Waiver of Court Fees and Costs and return it with your correspondence. See waiver enclosed.

☐ Check is not signed.

☐ County ordinance forbids acceptance of personal checks not drawn on a California bank. You may submit a cashier's check, money order or company check.

☐ Check must have a preprinted name and full address, not a P.O. box. You may submit a cashier's check or money order.

☐ Information given is not sufficient. Please provide: a. Full names of parties involved; b. Approximate year action was filed or years to search; c. Case number, if available; d. Name(s) of Index(es) to search; Plaintiff/Defendant/Both; Criminal; Domestic; Probate, Mental Health, Habeas Corpus, All. For criminal cases AKA's and parties' dates of birth are needed.

☐ As of this date there is no record of the final judgment.

☐ Please clarify documents needed. Information given is insufficient to make determination.

☐ Other: _____

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☒ Please submit check/money order/cashier's check in the amount of \$ 10.00

Date 1/11/02 by Stephen Thunberg Deputy

STEPHEN THUNBERG
CLERK OF THE SUPERIOR COURT

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SDSC ADM-502 Rev. 1-00

Ex.

CASE NUMBER CR105783

THE ATTACHED DOCUMENTS ARE BEING RETURNED BECAUSE:

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☐ As of this date there is no record of the final judgment.

☐ Please clarify documents needed. Information given is insufficient to make determination.

☒ Enclosed is are copies from the case file - CR105783- for copies of Other the transcripts you would have to contact the Court Reporters at 619/531-3964 to follow up--I have forwarded your request to them.

FEES, ESTABLISHED BY GOVERNMENT CODE SECTIONS INDICATED, ARE AS FOLLOWS:
COPIES (26831) 30 @ 0.50 per page = 15.00
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SEARCHING FOR A NAME/CASE NUMBER, ETC. (26854) 30 @ 0.50 per page = 15.00
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☒ Please submit check/money order/cashier's check in the amount of \$ 15.00

STEPHEN THUNBERG
CLERK OF THE SUPERIOR COURT

Date FEB 13 2001 by R. Williamson Deputy

PLEASE SUBMIT SELF-ADDRESSED STAMPED ENVELOPE FOR RETURN OF COPIES
PLEASE RETURN THIS FORM WITH YOUR CORRESPONDENCE

Ex.

Leovardo Salceda J-90933
FB - 85 - 128, 44750 60th St. West
Lancaster, CA 93536

July 26, 2001

Mrs. Evangelina Camarena
3893 Gamma Street
San Diego, CA 92113

Re: Case #CR105783 (year 1989) Settled Statement and/or transcripts.
And if you could please go to Public Defenders Office.

Dear Tia Angle,

Hi, when you have time, would you go to the court-house at 220 West Broadway and please ask a Clerk if Honorable Judge William Mudd is still a Judge?

And if he is, would I write to him directly with respect to a "Settled Statement" for case #CR105783 (year 1989). Because it appears those transcripts have been destroyed. Please see letter dated February 14, 2001 from E. Neal of Court Reporting Services attached to my letter dated February 4, 2001 enclosed. Please ask the Court Reporter to read what I wrote in red.

Also enclosed is a copy of a motion for discovery and for transcripts and court records I mailed to the Superior Court on June 21, 2001. Can you ask the Clerk of the Court if it has been filed. Please send me back this copy of motion back, its my only copy. I send it you so you can show the clerk. Enclosed is a stamped self addressed envelope with my name if you could send the copy of motion back to me.

Tia if you and my mom have time on the day you go to the court-house, would you please stop by the Public Defenders Office, and ask how can I get "Settled Statement" of my case #CR105783 (year 1989). Because it appears the transcripts have been destroyed according to the letter of E. Neal. The address is:

Public Defenders Office (Downtown)
233 "A" Street, Suite 400
San Diego, CA 92101

And lastly, please ask the Clerk if my mom can make a notarized statement with a notary public at the court-house? The "notarized statement" will be later on, not now. Thank you very much Tia.

Sincerely,

Leovardo Salceda
Leovardo Salceda.

P.S. Tia if you would like please
Show the Clerk everything in
this envelope. I hope it is
not to confusing. *Ex.*

IN REPLYING
PLEASE GIVE
OUR REF. NO.

THE CITY OF SAN DIEGO

July 17, 2001

Leovardo Salceda J-90933
FB B5 128
44750 60th Street West
Lancaster, CA 93536

Subject: REQUEST FOR DOCUMENTS

Dear Leovardo Salceda J-90933:

By letter dated July 5, 2001 you requested business documents for an incident that occurred on April 23, 1995. We will not be providing these records to you for two reasons. We do not have records this old. Audio records are retained for a period of one (1) year before they are erased and reused. The exception to this would be if the Master Audio Recording is placed on hold prior to the one year anniversary date. No such hold was placed on the Master Recording for April 23, 1995. Computer generated incident histories are retained only for a period of four (4) years.

Secondly, as this is a criminal case, pursuant to Penal Code Section 1054 you are to submit a discovery request through the prosecuting agency for any records you would like to use in preparation of your case. You might also like to contact your original attorney to see if he already has any of the records that you are requesting.

If you have any questions regarding this matter you should contact your attorney or legal representative.

Sincerely,

Kathleen Healey
KATHLEEN HEALEY, A/CAPTAIN
San Diego Police Department
Communications Division

Office of the Chief of Police
1401 Broadway • San Diego, CA 92101-5279
Tel (619) 531-2000

Ex.



Message

Corless, Candi

From: Emison, Cliff
Sent: Thursday, September 19, 2002 1:04 PM

To: Corless, Candi
Hi Candi: (e.g. Bob Thursday for this week only)

Could you please pull the case file for Leovardo Salceda, case number CR105783.

Please copy the initial docket (or any docket for that matter) which shows who (or) which office was appointed to represent Mr. Salceda.

Defendant says we were appointed to represent him. I do not think so because the case is an old one and our records do not have us listed as representing him for this case.

If you have any questions please contact me at 619-338-4704.

Thanks

Cliff

copy

Leovardo Salceda J90933
FB B5 235
44750 60th Street West
Lancaster, CA 93536

September 1, 2002

Public Defenders Office
233 "A" Street, Suite 400
San Diego, CA 92101

Re: Case CR105783

Dear Public Defenders Office,

I would like to respectfully request from your office "Client papers and property" from my trial attorney's file. My trial attorney was Mr. William Youmans. This office notified me that Mr. Youmans passed away. I am very sorry.

Rules of Professional Conduct, Rule 3 700(D)(1)
Papers, Property, and Fees. A member whose employment has terminated shall:

(1) Subject to any protective order or non disclosure agreement, promptly release to the client, at the request of the client, all the client papers and property. "Client papers and property" includes correspondence, pleadings, deposition transcripts, exhibits, physical evidence, expert's reports, and other items reasonably necessary to the client's representation, whether the client has paid for them or not.

Please note the Court in this case CR105783 appointed the Public Defenders Office because I was unable to afford an attorney. I am still unable to afford an attorney and indigent. If you cannot send me the original client papers and property, please send me a copy of client papers and property. I understand this my take several weeks or the time necessary for my request. I will be patient.

Thank you very much.

Sincerely,

Leovardo Salceda
Leovardo Salceda.

9/19/2002

Ex.

Ex.

Leovardo Salceda J90933
 FB B5 235
 44750 60th Street West
 Lancaster, CA 93536

September 25, 2002

Mr. Daniel J. Mangarin, Esq.
 Attorney at Law, Chief Deputy
 Department of the Alternate Public Defender
 110 West "C" Street, Suite 1100
 San Diego, CA 92101

Re: Case SCD112436 Request for "Client papers and property"

Dear Mr. Mangarin,

I would like to respectfully request from you "Client papers and property" from your file case SCD112436. I was your client in 1995 and 1996.

Rules of Professional Conduct, Rule 3 700(D)(1) Papers, Property, and Fees. A member whose employment has terminated shall:
 (1) Subject to any protective order or non disclosure agreement, promptly release to the client, at the request of the client, all the client papers and property. "Client papers and property" includes correspondence, pleadings, disposition transcripts, exhibits, physical evidence, expert's reports, and other items reasonably necessary to the client's representation, whether the client has paid for them or not.

In August 2000 I received from you a copy of reporter's and clerk's transcripts in SCD112436. (See your letter attached). But "aside" from the reporter's and clerk's transcripts, I am now asking you for either the original or a copy of "Client papers and property." I am preparing my habeas corpus and need "Client papers and property" to substantiate my claims. Also there were some pro per motions I wanted to file back in 1995, but you ended up getting the pro per motions I wanted to file, and you kept them and they were not filed.

Enclosed is a large stamped (with \$5.18 in postage) self addressed envelope in hopes that it is enough to pay for postage so you can send me the "Client papers and property."

Thank you very much.

Sincerely,

Leovardo Salceda
 Leovardo Salceda.

Ex.

Leovardo Salceda J90933
 FB-B5-235
 44750 60th Street West
 Lancaster, CA 93536

September 1, 2002

Mr. Thomas Carnessale, Esq.
 Attorney at Law
 Public Defenders Office
 233 "A" Street, Suite 400
 San Diego, CA 92101

Re: Case CRI40382

Dear Mr. Carnessale,

I would like to respectfully request from your office "Client papers and property" from the file case CRI40382. I was your client in 1993.

Rules of Professional Conduct, Rule 3-700(D)(1) Papers, Property, and Fees. A member whose employment has terminated shall:

(1) Subject to any protective order or non disclosure agreement, promptly release to the client, at the request of the client, all the client papers and property. "Client papers and property" includes correspondence, pleadings, deposition transcripts, exhibits, physical evidence, expert's reports, and other items reasonably necessary to the client's representation, whether the client has paid for them or not.

Please note the Court in this case CRI40382 appointed the Public Defenders Office because I was unable to afford an attorney. I am still unable to afford an attorney and indigent. If you cannot send me the original client papers and property, please send me a copy of client papers and property. I understand this may take several weeks or the time necessary for my request. I will be patient.

Thank you very much.

Sincerely,

Leovardo Salceda
 Leovardo Salceda.

Ex.

THE STATE BAR
OF CALIFORNIA

1149 SOUTH HILL STREET, LOS ANGELES, CALIFORNIA 90015-2299

TELEPHONE: (213) 765-1000
TDD: (213) 765-1566
FAX: (213) 765-1168
<http://www.calbar.ca.gov>

OFFICE OF THE CHIEF TRIAL COUNSEL
INTAKE



December 16, 2002

Leovardo Salceda
J90933 FB BS 221
44750 60th St. West
Lancaster, CA 93536

RE: Inquiry Number: 02-22031
Respondent: Daniel J. Mangarin

Dear Mr. Salceda:

You have complained that Daniel J. Mangarin has been discharged and not returned your documents to you. Your complaint concerns us. However, it is hoped that bringing your complaint to the attorney's attention will resolve this matter.

We have advised the attorney to contact you within ten (10) working days from the date of this letter, regarding the availability of your client file. Under the Rules of Professional Conduct, the attorney is not required to mail or deliver the file to you. Whether you, or a designee, pick up the file from the attorney's office or the attorney mails the file to you, is a decision to be made between you and the attorney.

Should the attorney fail to contact you within the specified time, please recontact the State Bar. At that time, we will determine if further action is needed.

At this time, your complaint file is being closed, without prejudice.

Very truly yours,
007
INTAKE DEPARTMENT

8525 GIBBS DRIVE #201
SAN DIEGO, CA 92123-1765
(619) 974-5818
FAX (619) 974-5808

410 S. MELROSE AVE. #200
VISTA, CA 92083-0632
(760) 940-6450
FAX (760) 940-6462

250 E. MAIN STREET, 8TH FL.
EL CAJON, CA 92020-3941
(619) 441-4850
FAX (619) 441-4848

765 3RD AVE. #305
CHULA VISTA, CA 91910-5643
(619) 498-2065
FAX (619) 498-2084

County of San Diego

DEPARTMENT OF THE ALTERNATE PUBLIC DEFENDER
110 West "C" Street, Suite 1100, San Diego, CA 92101-3905
(619) 446-2500 FAX (619) 446-2955

December 30, 2002

Leovardo Salceda
CDC #J-90933 B-5-123 UP
California State Prison, LAC
44750 60th Street West
Lancaster, CA 93536-7620

Dear Mr. Salceda:

Enclosed please find a copy of the contents of your client/department file. I have previously sent to you a copy of the trial transcripts and preliminary hearing. I no longer have any additional transcripts.

Good luck, Leo!

Sincerely,

Daniel J. Mangarin
Chief Trial Deputy
Department of the Alternate Public Defender

DJM:vl
Enclosure

cc: Desiree Washington
State Bar of California
1149 South Hill Street
Los Angeles, CA 90015

Re: Inquiry # 02-22031

Case 02-22031/2436

Ex.

Ex.

HANDY HORIYE

Attorney at Law
3520 Cooper Street
San Diego, California 92104-5214
(619) 584-1523

December 27, 2002

Mr. Leonardo Salceda
J-90933 FB-B5-213
44750 60th Street West
Lancaster, CA 93536

Dear Mr. Salceda,

I received your letter dated December 23, 2002. As I stated in my letter to you dated March 17, 2000 (enclosed), I do not have any legal documents that might be helpful to you. I sent the "motions" that you mentioned to Mr. Mangarin with the trial transcripts. Since you received your sentencing transcripts from me and your trial transcripts from Mr. Mangarin, you should have received the "motions" with the trial transcripts since I included them with the trial transcripts.

I have the other letters you sent me and the letters I sent you but you should have copies of them. The letters are not helpful in any ways you might want to file. I am including a copy of the letter I sent you (which you should have) in which I discussed the issues in your "motions" in case you do not receive the "motions". It might help to remind you of the issues raised.

Good luck.

Sincerely,
Handy Horiye
Handy Horiye

encl. 2

Ex.

Leonardo Salceda J90933
FB B5 235
44750 60th Street West
Lancaster, CA 93536

RECEIVED

OCT -1 2002

CLERK SUPREME COURT

September 26, 2002

California Supreme Court
Attn: Clerk of the Court
350 McAllister Street
San Francisco, CA 94102

Re: Filing new habeas corpus petition or petition for review
after Superior Court denial of habeas corpus petition
#HC17070

Dear Clerk of the Court,

On July 19, 2002, the Superior Court denied my habeas corpus petition. I am in early stages of either filing a new habeas corpus petition or petition for review. I am in pro per. The facility I am incarcerated at has been on lock downs after lock downs. Currently we are lock down (since mid August 2002) and does make it difficult for access to law library.

I would like to ask for a couple of things so I may file the correct judicial form for habeas corpus petitioner or petition for review in pro per, comply with California Supreme Court rules, and properly present my claims. Can you please send me:

*) Correct judicial council form for petition for writ of habeas corpus or petition for review in pro per

*) a pamphlet to comply with rules of California Supreme Court and;

*) I understand each case has its own facts. Is

there a

general sample habeas corpus petition or petition for review with respect to challenges on prior conviction based on inadequate advisement of the right to jury, to cross examine, and against self incrimination before entry of guilty plea.

When I have a chance to read more law, I can figure what to file either a new habeas corpus petition or petition for review.

Enclosed is stamped self addressed envelope if you could please respond. Thank you very much.

(attached is my declaration
that I am indigent and
in pro per)

Sincerely,

Leonardo Salceda
Leonardo Salceda.

Ex.



THE STATE BAR
OF CALIFORNIA

OFFICE OF THE CHIEF TRIAL COUNSEL
INTAKE

1149 SOUTH HILL STREET, LOS ANGELES, CALIFORNIA 90015-2299

(213) 765-1000 FAX: (213) 765-1168
TDD: (213) 765-1566

March 17, 2003

Leovardo Salceda J90933
FB-B5-213
44750 60th Street West
Lancaster, CA 93536

Re: Inquiry No.: 03-03639
Respondent: Ronald Karnig Vanesian

Dear Mr. Salceda:

We have received your complaint dated February 24, 2003, against Mr. Vanesian. Your allegations may be grounds for a criminal appeal or a civil claim for damages, but they do not form the basis for discipline. You may wish to consult with an attorney with regard to the criminal appeal or any civil remedies.

Our decision to close your complaint is not a determination that the attorney(s) acted properly, it is only a determination that there is insufficient evidence that the attorney(s) willfully violated the applicable ethical rules. In the event that the court makes a finding that the attorney(s) committed misconduct, please provide that information along with copies of any relevant court papers and we will re-evaluate your complaint at that time.

OFFICE OF THE CHIEF TRIAL COUNSEL/INTAKE
Y50

EX.



State of California
DEPARTMENT OF JUSTICE

BILL LOCKYER
Attorney General

P.O. Box 9001387
SACRAMENTO, CA 94203-3870
Public: (916) 227-2222
Facsimile: (916) 227-4815
(916) 227-3460

April 25, 2003

Leovardo Salceda, J90933
FB-B3-164
P.O. Box 2349
Blythe, California 92226

RE: Record Request

Dear Mr. Salceda:

The California Department of Justice (DOJ) is in receipt of your letter dated March 11, 2003, and received by this Department on April 7, 2003, seeking possible criminal history records on three prosecution witnesses who testified at your 1995 trial in San Diego Superior court, case # SCD112436, as outlined in your letter (attached).

The DOJ cannot honor your request and produce the requested records as they are protected by Penal Code Sections 11105, 11075, et seq., Civil Code Section 1798, et seq., and evidence Code Section 1040.

Sincerely,

Dennis N. Cross
DENNIS N. CROSS

Keeper of Records
Communications Administration Program
Bureau of Criminal Information & Analysis

For BILL LOCKYER
Attorney General

DNC:dc

Ex.

Superior Court of California
County of San Diego



☒ CENTRAL COURT 220 W. BROADWAY
P.O. BOX 128
SAN DIEGO, CA 92112
Clerical Records (619) 585-5220

☐ NORTH COUNTY 325 S. MELROSE DR.
SUITE 100
SAN DIEGO, CA 92108-5627
Records Division (619) 441-4622

☐ EAST COUNTY 550 E. MAIN ST.
SUITE 100
CHULA VISTA, CA 92020-3913
Records Division (619) 691-4780

☐ SOUTH BAY 800 THIRD AVE.
CHULA VISTA, CA 91910-5694
Records Division (619) 691-4780

CASE NUMBER N/A

THE ATTACHED DOCUMENTS ARE BEING RETURNED BECAUSE:

☒ Insufficient/no fee submitted. If you believe you are eligible for a fee waiver, you may submit an Application for Waiver of Court Fees and Costs and return it with your correspondence.

☐ Check is not signed.

☐ County ordinance forbids acceptance of personal checks not drawn on a California bank. You may submit a cashier's check, money order or company check.

☐ Check must have a preprinted name and full address, not a P.O. box. You may submit a cashier's check or money order.

☒ Information given is not sufficient. Please provide: a. Full names of parties involved; b. Approximate year action was filed or years to search; c. Case number, if available; d. Name(s) of index(es) to search: Plaintiff/Defendant/Both; Criminal; Domestic; Probate; Mental Health; Habeas Corpus; All. For criminal cases AKA's and parties' dates of birth are needed.

☐ As of this date there is no record of the final judgment.

☐ Please clarify documents needed. Information given is insufficient to make determination.

☒ Other: A date of birth is needed for any criminal records search. There is a \$5.00 fee per name. Thank you.

FEES, ESTABLISHED BY GOVERNMENT CODE SECTIONS INDICATED, ARE AS FOLLOWS:

COPIES (26831)	.50 per page
CERTIFICATION (26833.1)	6.00 per document
COMPARING TO ORIGINAL (26837.1)	1.00 per page
EXEMPLIFICATION (26839)	20.00 each form
CERTIFIED COPIES OF DISSOLUTION JUDGMENT (26832.1(a))	10.00 document
SEARCHING FOR NAME/CASE NUMBER, ETC. (26866)	5.00 per search
PROCESSING BAIL BOND EXONERATION SLIPS (26836.1)	6.00 per request

☐ Please submit check/money order/cashier's check in the amount of \$

CLERK OF THE SUPERIOR COURT

By D. BUDD Deputy

2: March 19, 2003

PLEASE SUBMIT SELF-ADDRESSED STAMPED ENVELOPE FOR RETURN OF COPIES.
PLEASE RETURN THIS FORM WITH YOUR CORRESPONDENCE

SUPCT ADM-SUPREV-1-99

Ex.



County of San Diego

DEPARTMENT OF THE PUBLIC DEFENDER

STEVEN J. CARROLL
PUBLIC DEFENDER

CENTRAL OFFICE
233 "A" Street, Suite 500
San Diego, CA 92101-4009
(619) 338-4700
FAX (619) 338-4811

NORTH COUNTY BRANCH
400 S. Melrose Drive, Suite 200
Vista, CA 92083-6627
(760) 945-4000
FAX (760) 726-1308

SOUTH BAY BRANCH
765 Third Avenue, Suite 100
Chula Vista, CA 91910-5842
(619) 958-2001
FAX (619) 498-2039

EAST COUNTY BRANCH
250 E. Main Street, Sixth Fl.
El Cajon, CA 92020
(619) 579-3316
FAX (720) 441-4744

JUVENILE DELINQUENCY
8525 Gibbs Drive, Suite 105
San Diego, CA 92123-2709
(858) 974-3700
FAX (858) 974-3538

JUVENILE DEPENDENCY
8525 Gibbs Drive, Suite 100
San Diego, CA 92123-2709
(858) 974-5757
FAX (858) 974-5711

June 9, 2003

Writer's Direct Telephone: (619) 338-4768
E-mail: gary.nichols@sdcounty.ca.gov
FAX: (619) 338-4811

Mr. Stephan M. Kelly, Clerk of the Court
Court of Appeal, 4th Dist., Div. 1
750 B Street, Suite 300
San Diego, CA 92101

Re: D042258; Leonardo Salceda v. Superior Court (Public Defender, RPI)

Dear Mr. Kelly:

The petition for writ of mandate filed by Mr. Salceda, seeks a copy of his client file prepared in 1985 and maintained by the Public Defender in the course of our representation of Mr. Salceda in San Diego Superior Court case number CR105783.

It is the policy of the Public Defender to provide clients with copies of their files upon request. Apparently clerical staff was unable to locate Mr. Salceda's file when he requested it in 2002. The Public Defender represented Mr. Salceda during the first year of the existence of the office and before closed file tracking procedures were fully developed.

Mr. Salceda's file has now been located. It is being copied and reviewed for compliance with Penal Code 1054.2 and will be mailed to Mr. Salceda immediately thereafter. It is anticipated those tasks will be completed within a matter of a few days. Proof of mailing will be provided to the Court immediately upon its occurrence.

The Public Defender apologizes to Mr. Salceda and the Court for the inconvenience occasioned by the original failure to locate the file.

Sincerely,

GARY R. NICHOLS
Supervising Deputy Public Defender
Writ & Appeals Section

Ex.



County of San Diego

DEPARTMENT OF THE PUBLIC DEFENDER

STEVEN J. CARROLL
PUBLIC DEFENDER

CENTRAL OFFICE
233 "A" Street, Suite 500
San Diego, CA 92101-4009
(619) 338-4700
FAX (619) 338-4811

NORTH COUNTY BRANCH
400 S. Melrose Drive, Suite 200
Vista, CA 92083-6627
(760) 945-4000
FAX (760) 726-1308

SOUTH BAY BRANCH
765 Third Avenue, Suite 100
Chula Vista, CA 91910-5842
(619) 498-2001
FAX (619) 498-2039

June 11, 2003

Writer's Direct Telephone: (619) 338-4768
E-mail: gary.nichols@sdcounty.ca.gov
FAX: (619) 338-4811

Leonardo Salceda
J90933; B3 --150
P.O. Box 2349
Blythe, CA 92226

Re: D042258; Leonardo Salceda v. Superior Court (Public Defender, RPI)

Dear Mr. Salceda:

Enclosed is a copy of the entire contents of your client file in case number CR105783 as requested in the petition for writ of mandate together with the declaration and letter filed with the Court of Appeal attesting to compliance with your request. The addresses and telephone numbers of witnesses have been redacted as required by Penal Code section 1054.2.

Sincerely,

GARY R. NICHOLS
Supervising Deputy Public Defender
Writ & Appeals Section

Ex.



NEW CENTRAL OFFICE
233 "A" Street, Suite 500
San Diego, CA 92101-4009
(619) 338-4700
FAX (619) 338-4811

NORTH COUNTY BRANCH .
400 S. Melrose Drive, Suite 200
Vista, CA 92083-6627
(760) 945-4000
FAX (760) 726-1308

SOUTH BAY BRANCH
765 Third Avenue, Suite 100
Chula Vista, CA 91910-5842
(619) 498-2001
FAX (619) 498-2039

County of San Diego

DEPARTMENT OF THE PUBLIC DEFENDER

STEVEN J. CARROLL
PUBLIC DEFENDER

June 11, 2003

Writer's Direct Telephone: (619) 338-4768
E-mail: gary.nichols@sdcountry.ca.gov
FAX: (619) 338-4811

Mr. Stephan M. Kelly, Clerk of the Court
Court of Appeal, 4th Dist., Div. 1
750 B Street, Suite 300
San Diego, CA 92101

Re: D042258; Leovardo Salceda v. Superior Court (Public Defender, RPI)

Dear Mr. Kelly:

Enclosed is my declaration attesting to the mailing to Mr. Salceda of a copy of the entire contents of his client file as requested in the petition for writ of mandate. This should render the petition moot.

Sincerely,

GARY R. NICHOLS
Supervising Deputy Public Defender
Writ & Appeals Section

EAST COUNTY BRANCH
250 E. Main Street, Sixth Fl.
El Cajon, CA 92020
(619) 579-3316
FAX (720) 441-4744

JUVENILE DELINQUENCY
8525 Gibbs Drive, Suite 105
San Diego, CA 92123-2709
(858) 974-5700
FAX (858) 974-5858

JUVENILE DEPENDENCY
8525 Gibbs Drive, Suite 300
San Diego, CA 92123-2709
(858) 974-5757
FAX (858) 974-5711

STEVEN J. CARROLL
Public Defender, County of San Diego
GARY R. NICHOLS, St. Bar No. 86853
Deputy Public Defender
233 'A' Street, Suite 500
San Diego, California 92101
Telephone: (619) 338-4768

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT, DIVISION ONE**

No. D042258)
 LEONARDO SALCEDA,)
 Petitioner,)
 v.)
 SAN DIEGO SUPERIOR COURT,) Respondent.
 SAN DIEGO PUBLIC DEFENDER,)
 Real Party in Interest.)

I, GARY R. NICHOLS, declare that I am an attorney duly licensed to practice law before all courts of the State of California. I am employed by the San Diego County Public Defender.

On the date of execution of this declaration I caused to be mailed a true copy of the entire contents of the client file created and maintained by the public defender in the course of representing Leonardo Salceda in San Diego Superior Court Case number CR 105783. The only modification to the file was the redaction of the material described in Penal Code section 1054.2, subdivision (a). The copy of the file was mailed to:

Leovardo Salceda
J90933; B3 - 150
P.O. Box 2349
Blythe, CA 92226

I declare under penalty of perjury the foregoing is true and correct.
Executed on June 11, 2003, at San Diego, California.

CHARV B. NICHOLS

五

✓

PROOF OF SERVICE BY MAIL
(Code of Civ. Proc., § 1013a(1))

CASE NAME: Leovardo Salceda v. Superior Court (San Diego Public Defender)

No.: D042258 (Super.Ct. Nos. SCD112436, CR105783)

I am a resident of the County of San Diego, State of California. I am over the age of 18 years and not a party to the within action. My office address is 233 "A" Street, Suite 1010, San Diego, California 92101. I am employed by the San Diego County Public Defender.

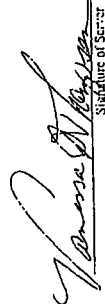
On the date of execution of this document, I served a true and correct copy of the foregoing DECLARATION OF TRANSMITTAL OF CLIENT FILE and COVER LETTER on each of the following by depositing true copies thereof in the United States Mail at San Diego, California, each in a separate sealed envelop with postage thereon fully prepaid, addressed as follows:

Leovardo Salceda
J90933; B3 - 150
P.O. Box 2349
Blythe, CA 92226

Clerk of the Superior Court
for delivery to Hon. William D. Mudd
220 West Broadway
San Diego, CA 92101

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 11th day of June, 2003, at San Diego, California.


Signature of Server

Ex.



**THE STATE BAR
OF CALIFORNIA**

1149 SOUTH HILL STREET, LOS ANGELES, CALIFORNIA 90015-2299

OFFICE OF THE CHIEF TRIAL COUNSEL
INTAKE

TELEPHONE: (213) 765-4000
TDD: (213) 765-4066
FAX: (213) 765-4068
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Case No. 03-cv-01037-IEG-PCL

Document 15

Filed 06/10/2008

Page 28 of 60

June 26, 2003

Leovardo Salceda J90933
B3-164
P.O. Box 2349
Blythe, CA 92226

RE: Inquiry Number: 03-03639
Respondent: Laurens William Youmans, III

Dear Mr. Salceda:


This will acknowledge receipt of your complaint against Laurens William Youmans, III, complaining that the attorney has failed to release your client file from his representation of you in 1989.

As you know, the attorney about whom you complained died in or about February 1999. We have contacted the Public Defenders Office, however, and learned that the office had been created in 1988 and did not develop a file retention policy for several years. I am forwarding a copy of your letter dated September 1, 2002, for response to the following address:

Office of the Public Defender
Attn: Robert J. Stall, Jr.
233 A St., #400
San Diego, California 92101

I note that your address has changed, and I hope this letter reaches you. Thank you for bringing this matter to our attention.

Very truly yours,


Dane C. Dauphine
Supervising Trial Counsel

DCD

cc: Robert J. Stall, Jr.

Enclosure

JESUS RODRIGUEZ
ASSISTANT DISTRICT ATTORNEY

THE DISTRICT ATTORNEY
COUNTY OF SAN DIEGO

BONNIE M. DUMANIS
DISTRICT ATTORNEY

San Diego
330 West Broadway
San Diego, CA 92101
(619) 531-4040
<http://www.sandiegocda.com>

July 29, 2003

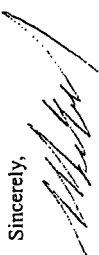
Leovardo Salceda
CDC No. J-90933, Cell B3-164
Chuckawalla Valley State Prison
P.O. Box 2349
Blythe, CA 92226

Re: DA Case No. P062369
SDSC Case No. SCD112436

Dear Mr. Salceda:

I am in receipt of your April 3, 2003 letter regarding prosecution witnesses in your September 25, 1995 trial. After a thorough records search, it has been determined that none of the witnesses referenced in your letter had impeachable prior convictions at the time of your trial.

Your appellate attorney should contact the Public Defender's office regarding their decision to conflict out of this case.

Sincerely,

MICHAEL GROCH
Deputy District Attorney

MG/jfj

cc: Office of the Public Defender
Office of the Alternate Public Defender

Ex.

Leovardo Salceda J-90933
B3-150
P.O. Box 2349
Blythe, CA 92226

October 30, 2003

Office of the Clerk
For Delivery To The Honorable William Mudd, Judge
San Diego County Superior Court
P.O. Box 120128
San Diego, CA 92112-0128

Re: Did Your Honor know that Mr. Rafael Haro (the victim/witness) recanted his identification of me prior to accepting my plea of guilty? *Case CR05783*.

Dear Honorable Judge Mudd,

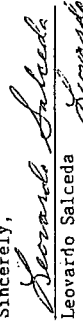
On August 20, 2003, Honorable H. Ronald Domnitz, Judge, denied my post-conviction motion for relief in light of confirmation by the prosecution that Mr. Haro recanted his identification of me prior to my plea. I alleged it was prejudicial error because Mr. Haro recanted before my guilty plea, because of the following:

- (1) Your Honor was not made aware of Mr. Haro's recant before my plea;
- (2) During plea negotiations on October 3, 1989, in holding cell and shortly thereafter in Court, my attorney discussed with me waiving jury and signing jury waiver, but my attorney did not inform me Mr. Haro had told the prosecutor prior to me waiving jury that he mis-identified me as the person who robbed him and had no intention to appear at trial (see letter attached);
- (3) The prosecutor or my attorney did not inform Your Honor Mr. Haro recanted his identification of me prior to the Court accepting my plea; and
- (4) When the transcript was submitted to the Court, two of my rights - the right to confront and against self incrimination - were forfeited that I was unaware of nor advised of by the Court or my attorney. As a layman I did not have full knowledge or made aware orally or on Court documents that I had the right to confront Mr. Haro regarding his recant and against self incrimination before my plea. The plea was not voluntary and intelligent.

In Judge Domnitz denial order he noted that I "surmise" that had Your Honor known about Mr. Haro's recant, you would not have accepted the guilty plea (slow plea). Also that I just "guess" without substantiation that you were unaware of Mr. Haro's recant.

Before I continue to allege that Your Honor was unaware of Mr. Haro's recant, the best alternative I have is to respectfully ask Your Honor did you know Mr. Haro recanted before I accepted my guilty plea.

Sincerely,


Leovardo Salceda

Ex.

LOYOLA

LAW SCHOOL • LOS ANGELES

MARY JAMESON
AUTOMATIC APPEALS SUPERVISOR
JORGE NAVARRETE
SUPERVISING DEPUTY CLERK
SAN FRANCISCO

NATALIE ROBINSON
SUPERVISING DEPUTY CLERK
LOS ANGELES



Supreme Court of California

FREDERICK K. OHLRICH
COURT ADMINISTRATOR AND
CLERK OF THE SUPREME COURT

☒ SAN FRANCISCO 94102
FARL WARREN BUILDING
300 WALLACE STREET
SAN FRANCISCO, CA 94102

☐ LOS ANGELES 90013
HOMER H. HARRIS BUILDING
300 WEST SPRING STREET
LOS ANGELES, CA 90013

July 28, 2004

Leovardo Salceda J-90933
B3-260
P.O. Box 2349
Blythe, CA 92226

Dear Mr. Salceda,

Thank you for your letter. *Blakely v Washington* may have an impact on your sentence. For information, please contact Alex Riccardulli. He is a Public Defender for Los Angeles County. You can write to him at:

Los Angeles Public Defender
590 Hall of Records
320 West Temple Street
Los Angeles, CA 90012

Sincerely,

LLD

Laurie L. Levenson
Professor of Law & William M. Rains Fellow
Director, Center for Ethical Advocacy
Loyola Law School

July 11, 2005

Mr. Leovardo Salceda #J-90933
B3-260L
P.O. Box 2349
Blythe, CA 92226

Re: S125591 – In re Leovardo Salceda on Habeas Corpus

Dear Mr. Salceda:

Your letter to the court, dated July 5, 2005, has been referred to this office for a reply.

Neither the Chief Justice, nor any associate justice, nor the full court may give legal advice or assistance. As you may appreciate, the law limits the courts to hearing and deciding cases. The courts may not otherwise participate in any matter that may be related to a current or future legal proceeding.

I regret that we cannot be of further help to you. You may wish to consult an attorney instead.

Very truly yours,

FREDERICK K. OHLRICH
Court Administrator and
Clerk of the Supreme Court

By: *[Signature]*
A. Allen, Deputy Clerk

AA/ah

Ex.

Ex.

APPELLATE DEFENDERS, INC.

555 WEST BEECH ST.
SUITE 300
SAN DIEGO, CA 92101-2939
(619) 696-0232
Automated Attendant: (619) 696-0284
Fax: (619) 696-5129
www.adl-sandiego.com

April 14, 2006

Mr. Leovardo Salceda, J-90933
P.O. Box 2349
Blythe, CA 92226


RE: *People v. Leovardo Salceda*
Court of Appeal #D025258
In re Leovardo Salceda; Court of Appeal #D048000

Dear Mr. Salceda:

I have received your letter dated March 27, 2006, including various enclosures. Your letter asks whether there is any case law that would allow you to file a motion in the Court of Appeal for further discovery. I suggest you take a look at the case of *Board of Prison Terms v. Superior Court* (2005) 130 Cal.App.4th 1212 to determine the right of discovery in habeas proceedings. There are two other cases I suggest you look at: *People v. Kasim* (1997) 56 Cal.App.4th 1360, 1383-1384 and *People v. Garcia* (1993) 17 Cal.App.4th 1169.

In your letter, you also ask if I or another attorney could request appointment in your case. It is the Court of Appeal which orders appointment of counsel upon a defendant's request (not an attorney's request). You need to ask the Court of Appeal to appoint counsel. I see you have already done so, but you could file another request. I do not think it would prejudice your case.

Sincerely,


Cindi B. Mishkin
Staff Attorney
APPELLATE DEFENDERS, INC.

Ex.

Leovardo Salceda J-90933
CVSP, 35-260 Low
P.O. Box 2349
Blythe, CA 92226

In pro per, November 17, 2005

Ms. Gina Villegas, CSR No. 11273
Official Court Reporter
220 West Broadway
San Diego, CA 92101

Re: *People v. Leovardo Salceda*, Case No. 112436, specifically
Reporter's Transcript of Sentencing Remand, June 12, 1997
Pages 1 through 24

Dear Ms. Villegas,

You sent me a "Reporter's Estimate of Cost Declaration" explaining the above referenced Reporter's Transcript (RT) would cost me \$112. On August 4, 2005, I sent you \$44.30, fee waiver, and declaration regarding my necessity of said RT. My problem was I did not have the required \$112.

Today I wrote to my mother, Carmen Lopez, and cousin, Ernie Lopez, asking them to please pitch-in the remaining \$68 I need to complete the \$112 for the RT. Carmen and Ernie hopefully should be contacting you to pay the remaining \$63.

I am hopeful after full payment for RT, that you can please send me the RT so that I may include (submit) to the Court Of Appeal as exhibits in support of my claim of innocence. I intend to file my habeas petition in late late November or early early December 2005.

Enclosed is a stamped self addressed envelope for the above purpose.

Carmen Lopez
3393 Gamma St.
San Diego, CA 92113
(619) 264-5583

Ernie Lopez

507 East Park Ave.
El Cajon, CA 92020
(619) 328-5619

Thank you very much.

Sincerely,


Leovardo Salceda.

Ex.

Leovardo Salceda J-90933
CVSP, 83-260 Low
P.O. Box 2349
Blythe, CA 92226

June 21, 2006

Clerk's Office
San Diego Superior Court
220 West Broadway
San Diego, CA 92101

Re: People v Leovardo Salceda, SC0112436, (1995)

Dear Clerk of the Court,

The purpose of this letter is to respectfully request a cost estimate to buy an entire copy of Court File SC0112436.

In 1995 a jury convicted me of one count of kidnap PC §207(a). I had 2 prior convictions CR105783, CR140382, and sentenced to 35 years to life under the Three Strikes Law. On appeal, D025258, my case was remanded pursuant to People v Romero (1996) 13 Cal.4th 497, and Judge Amos struck 2 strikes and re-sentenced me to a determinate 26 years 80%.

On second appeal, D029086, sentence affirmed.

I am gathering evidence to support my habeas corpus petition to the California Supreme Court. I am raising several constitutional violations. One of which is that trial counsel in instant case SC0112436 did not thoroughly investigate my prior conviction CR105783.

1. Ronald K. Vanesian, Public Defender, declared conflict of interest on August 11, 1995, because he believed that my previous attorney William Youmans (also a Public Defender) was ineffective for failure to introduce intoxication evidence at my COURT TRIAL.

Question: Did Mr. Vanesian file any motions or otherwise collaterally attack CR105783? See RT 1-2, Conflict (Exhibit A).

2. Daniel J. Mangarin, Alternate Public Defender, was appointed. I explained to Mr. Mangarin the reason for the conflict as explained to me by Mr. Vanesian.

Question: Did Mr. Mangarin thoroughly investigate the conflict? If so, what exactly did he do? What motions, if any, or other collateral attacks concerning CR105783 did Mr. Mangarin file?

3. The Court File CR105783 is clear, there never was a COURT TRIAL wherein evidence is disputed. It was a negotiated plea bargain. The prosecutor submitted the preliminary hearing transcript in exchange for my guilty plea. Except 2 constitutional defects are apparent, which I claim that both Messrs. Vanesian and Mangarin should have discovered.

(a) Before or at the time of my plea in 1989, CR105783, I was neither advised nor waived my rights to confront witnesses or against self incrimination. These are incomplete waivers in exchange for my plea, commonly called Boykin-Tahl error.

(b) Incomplete waivers are critical to my defense because the victim Rafael Haro told the prosecutor that he mis-identified me as the person that robbed him. Cross examining Mr. Haro would have key to my defense in my prior conviction case. See letter (Ex. B).

(c) At trial during my instant case SC0112436, I unequivocally testified that I did not commit the first robbery in CR105783, i.e., the robbery of Mr. Haro. In rebuttal to my claim of innocence, the prosecutor claimed I signed a "change of plea form" in CR105783. However, the Court File CR105783 is devoid of any such "plea form." Moreover, the Boykin-Tahl rights are not mentioned anywhere in CR105783.

Here there any pretrial investigations and/or pretrial motions filed attacking CR105783 to prevent it from being used against me or striking it from the accusatory pleadings in SC0112436? Which would have prevented CR105783 from enhancing my current sentence as it now does.

A complete copy of Court File SC0112436 is necessary to assist my investigation to gather evidence to determine whether or not Messrs. Vanesian and/or Mangarin ever thoroughly investigate CR105783, which would support my grounds I am raising. See RT 288-290 (Ex. C).

Finally, I am indigent, but a cost estimate can tell me how much money I need to come up with. If it's \$30 to \$50, I can ask family/friends to help me buy the Court File. If the price is higher, I probably need to file a motion which demonstrates:

"The MacCollom Court noted while an indigent defendant had an absolute right to transcript on appeal, at the collateral stage he stood in a different position. 'We think enough at the collateral relief stage that Congress has provided that the transcript be paid for by public funds if one demonstrates to a district judge that his claim is not frivolous, and the transcript is needed to decide an issue presented.'" People v Bizieff (1991) 226 Cal.App.3d 1689, 1702, citing "U.S. v MacCollom (1976) 426 U.S. 317. See Trust Account printout (Ex. D).

Respectfully so, serving a full additional thirteen (13) years based on a invalid prior conviction which trial counsel should have investigated and attacked is hardly frivolous.

An addressed envelope is enclosed for your reply. Thank you.

Sincerely,

Leovardo Salceda
Leovardo Salceda. 6-21-06

2.

Ex.

Ex.

Leovardo Salceda J-90933
 CWSF, B3-260 Low
 P.O. Box 2349
 Ellythe, California 92226

July 29, 2006

Bonnie M. Dumanis, Esq.
 San Diego District Attorney
 330 West Broadway, Suite 1300
 San Diego, California 92101

copy

Re: Discovery of Evidence
 People v Salceda, CRL05783 / DA B6262101

Dear District Attorney,

In May 1995 an Information was filed in San Diego Superior Court, SCML12436, charging me with kidnap P.C. 207(a). The Information further alleged I suffered prior convictions: CRL05783 two robberies, and CRL40382 one assault w/D/W.

On September 25, 1995, jury trial commenced and I testified. On cross examination I was questioned about the prior robbery case CRL05783. I testified I did not commit the "first robbery" which is the robbery of Rafael Haro. The district attorney (DA) rebutted that I signed a change of plea form in 1989 case CRL05783 which listed, "robbery, robbery, auto theft." See RT 288-290, SCML12436, 9-27-95. Exhibit A.

On October 3, 1995, a jury convicted me of one count of kidnap. It was found true I suffered prior convictions CRL05783 and CRL40382. On June 12, 1997, I was sentenced as a two strike case: Upper 8 year term for kidnap, doubled to 16 years because of a strike from CRL05783, and added two 5-year terms for serious felony priors. Total 26 years at 80%. The court of appeal affirmed my sentence in March 1998, and I have been in pro per since March 1998 to the present day.

REQUEST FOR DISCOVERY OF EVIDENCE UNDER PENAL CODE
1054 et seq; DUE PROCESS CLAUSE U.S. CONST. 14TH AMENDMENT
 I am requesting additional information in your possession that is (a) material to my claim of innocence of the robbery of Rafael Haro. The evidence I request is material to the

preparation of my petition for writ of habeas corpus;
 (b) exculpatory or impeachment information under Brady v Maryland (1963) 373 U.S. 83; (c) any real evidence "discovery materials" means materials in the possession of prosecutor and law enforcement authorities to which I (the defendant) would have been entitled at time of trial; and (d) the change of plea form in CRL05783, listing, "robbery, robbery, auto theft," documentation, notations, or otherwise of waiver of my constitutional rights to jury trial, to cross examine witnesses, and against self incrimination before or at the time of my plea of guilty.

The prosecutor has a duty to disclose favorable evidence that is both favorable to defendant and material to either guilt or punishment. Evidence is favorable if it helps the defendant or hurts the prosecutions case as by impeaching one of its witnesses. People v Kasim (1997) 56 CA4th 1360, 1378-1381; U.S. v Bagley (1985) 473 U.S. 667, 682.

In my particular case prior conviction CRL05783 enhances my sentence in SCML12436 a full thirteen (13) years. So, if you possess evidence which is favorable to me and material to guilt in CRL05783, please disclose it to me, Due Process Clause. Also if you possess evidence which is favorable to me and material to punishment, the existence or non-existence of change of plea form, and adequate or in-adequate Boykin-Bahl waivers in CRL05783, please disclose it to me under Due Process

THE ROBBERIES AND AUTO THEFT CONVICTION

Rafael Haro and Ramon Cespedes testified at preliminary hearing. Haro testified he was seated in his parked car on June 30, 1989, at 9 p.m. Haro was waiting for Juan Sanchez. Sanchez returned with me and another person. The "other person" pointed a gun at Haro and demanded money. That I took Haro's watch, necklace, and some money. The "other person" got into the driver's seat and I got into the passenger seat and we left in Haro's car,

Ex.

Ex.

licence plate *Riquito*. Haro did not identify the "other person that drove his car."

Cespedes testified he was employed at Texaco Gas Station on June 30, 1989, at 9:15 p.m. A car pulled up and I got out, pointed a gun at Cespedes, and demanded money. I took \$180 and left in the car as the passenger. Cespedes did not identify the driver. Cespedes identified the licence plate *Riquito*. PHF 4-9, 20-25, CR105783, 7-20-89.

Immediately after the robberies, Officer H. Eisenga #3977, received a call that Haro's car had been recovered. Officer Eisenga advised Officers' Filley #4294 and Swilley #4252 to hold Haro's car for prints. See 89-073762, Exhibit B. Officer Filley searched Haro's car and found five (5) small baggy's of marijuana on the passenger floor board. The baggy's were taken into evidence at Eastern case # . The car was impounded at Central. See 89-073729, Exhibit C. Officer Swilley filed a report that Haro's car was held for prints. Exhibit D.

Officer G. Padillo #1716 stated that Detective Sullivan lifted several prints from the inside / outside of Haro's car. See 89-073756, follow-up report, Exhibit E. F. Aguirre #3202 interviewed Sanchez and Haro two hours after the robberies. Did Haro and Sanchez make statements concerning the baggy's of marijuana?

On October 2, 1989, jury selection began. On October 3, 1989, the prosecutor submitted the preliminary hearing transcript, counts 3 and 5 were dismissed, and defense submitted too.

I request the following documents, notations, real evidence, and any other material evidence under P.C. 1054 et seq, Due Process Clause U.S. Const. 14th Amendment.

- 1) Finger print results that Detective Sullivan lifted from Haro's car;
- 2) Finger print results lifted from the baggy's of marijuana;

3.

- 3) Statements by Rafael Haro, Juan Sanchez, Ramon Cespedes, and, any other witness which are exculpatory in nature tending to prove my innocence. Any inconsistent statements by any material witness;
- 4) Subpoena's of Rafael Haro, Juan Sanchez, Ramon Cespedes, and any other material witnesses;
- 5) Any criminal record of Rafael Haro, Juan Sanchez, Ramon Cespedes prior to June 30, 1989;
- 6) Copies of notations, documents, inter-department memo's of time, date, and district attorney representative that was informed by Rafael Haro stating he mis-identified me as the person that robbed him and he had no intention of coming to my trial?
- 7) Was Haro's mis-identification statement provided to my defense attorney?
- 8) If so, how was Haro's mis-identification statement provided to my defense attorney? Orally? Written? By Telephone? In Court?
- 9) If Haro's mis-identification statement was provided to my defense attorney, exactly who was the district attorney representative that informed my defense attorney?
- 10) According to the prosecutor that cross examined me in 1995, SC1112436, Exhibit A, there exists a charge of pleaform case CR105783 listing robbery, robbery, auto theft. Does there exist documents, notations, or otherwise of waiver of rights to jury trial, to cross examine witnesses, and against self incrimination? If so, please provide me with a copy?
- 11) Copies of documents, notations, or otherwise, that although the two robberies were separate, the case CR105783 was treated as one prior felony for "all purposes." That means one serious felony. And now under the Three Strikes law CR105783 is one (1) strike, not two strikes arising out of the same case; and
- 12) Any other material evidence to guilt or punishment?

Enclosed is a stamped self addressed envelope with \$ 5 (five dollars) of postage for your response to send me the discovery materials I request. Thank you very much.

Sincerely,

Leonardo Salceda 7-29-06
Leonardo Salceda.

4.

EX.

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss
I, Leovardo Salceda the undersigned, certify, and do
declare that I am over the age of 18 years, incarcerated at Cuckawalla Valley
State Prison, located at Blvthe, CA and a party / not a party to the
attached foregoing cause of action. On July 29, 2006, I did serve
a true copy of:

*Letter Requesting Discovery of Evidence
Penal Code 1054 et seq; Due Process
Clause U.S. Const. 14th Amendment
DA No. B6262101, CR105783*

[] by depositing it in a prison mail box in a sealed envelope, or [☒] by
handing it to institutional staff in a sealed envelope, along ☒ with inmate
Trust Account Withdrawal Order Form attached to it requesting that postage be
fully prepaid, or [] with postage affixed thereto for deposit in the United
States Mail pursuant to California Code of Regulations Sections 3142 and 3165;
addressed to the following: *Crim.No.*

*Bonnie M. Dumanis
San Diego District Attorney
330 West Broadway #1300
San Diego, CA 92101*
*Clerk's Office, CR105783
San Diego Superior Court
P.O. Box 122724
San Diego, CA 92112-2724*

Intended place of mailing: U.S. Post Office, at Blvthe, California.

I further declare under penalty of perjury that the foregoing is true and
correct to the best of my knowledge, and belief. Executed on July 29,
2006.

Leovardo Salceda
PETITIONER/DECLARANT IN PRO PER

Ex.

San Diego
330 West Broadway
San Diego, CA 92101
(619) 231-1040
<http://www.sandiegopda.com>

OFFICE OF
THE DISTRICT ATTORNEY
COUNTY OF SAN DIEGO
BONNIE M. DUNANIS
DISTRICT ATTORNEY

JESUS RODRIGUEZ
ASSISTANT DISTRICT ATTORNEY

August 3, 2006

Leovardo Salcedo J90933
CVSP, B3-260 Low
P.O. Box 2349
Blythe, CA 92226

RE: CR105783 (B62621-01)


Dear Mr. Salcedo:

Our office has received your letter dated July 29, 2006. We decline to provide the "discovery" you request for several reasons, including:

- (1) Having served your sentence in CR105783 you are no longer "in custody" in that matter. Thus, there is no jurisdiction for any court to consider or grant a petition for writ of habeas corpus in that case.
- (2) The only question in your current custody case, SCD112435, was whether you suffered a "strike" conviction in CR105783. Whether or not you were guilty was not before the court and is not relevant at this stage.
- (3) Further any challenge to CR105783 as a valid "strike" should have been litigated in a timely fashion as part of an appeal. Indeed your claims appear to be repetitious of habeas claims previously denied by the Court of Appeal (e.g. D041226).
- (4) You do not qualify for post-conviction discovery under Penal Code section 1054.9. We will not provide any material without a valid court order. We note apparently you have a pending discovery motion in another habeas matter pending in the Court of Appeal (D048000).

Any request you have for official records, such as change of plea forms, should be directed to the Clerk of the San Diego Superior Court, Criminal Records Division, 220 West Broadway, San Diego, CA 92101.

Finally, we are returning your pre-stamped envelope.

Sincerely,

Craig E. Fisher
Deputy District Attorney

Ex.

copy

August 16, 2006

Mr. Craig E. Fisher, Esq.
Deputy District Attorney
330 West Broadway
San Diego, CA 92101

Re: Discovery of Evidence, People v Salceda, SCD112436, DA No. P 062369

Dear Mr. Fisher,

On July 29, 2006, I wrote a letter to your office requesting discovery of evidence specifically concerning my prior conviction CR105783, Penal Code §1054 et seq. I received a letter dated August 3, 2006, written by you denying my request for discovery in CR105783.

I am serving a 26 year determinate sentence in my current custody case SCD112436. I am requesting discovery of evidence that is in your possession regarding my current custody case SCD112436:

- (1) Material evidence to my guilt or punishment in SCD112436. The evidence I request is material to prepare my petition for writ of habeas corpus;
- (2) Exculpatory or impeachment information under Brady v Maryland (1963) 373 U.S. 83;
- (3) Any real evidence "discovery materials" in the possession of prosecutor and law enforcement authorities to which I (defendant) would have been entitled at time of trial;
- (4) Any evidence whether I suffered a "strike" conviction in CR105783.

The prosecutor has a duty to disclose favorable evidence that is both favorable to defendant and material to either guilt or punishment. Evidence is favorable if it helps the defendant or hurts the prosecution's case as by impeaching one of its witnesses. People v Kasim (1997) 56 CA4th 1360, 1378-1381; U.S. v Bagley (1985) 473 U.S. 667, 682.

I request the following discovery in SCD112436:

- Statements against me (defendant) made by witnesses to the crimes charged;
- All statements or utterances made by me (defendant);
- Disclosure of any promise of leniency to any witness that was called by the prosecution;

Ex.

Leovardo Salceda J-90933
CVSP, B3-260 Low
P.O. Box 2349
Blythe, California 92226

August 22, 2006

Central Records Room 42
San Diego Superior Court
P.O. Box 120128
San Diego, California 92112-4104

Re: Jesus H. Lopez finger prints to corroborate my claim of
innocence in Case Number CR105783

Dear Clerk of the Court,

I am conducting an investigation and gathering evidence to prove my innocence of a robbery. The purpose of this letter is to get Jesus H. Lopez finger prints from his Superior Court File. Lopez prints can exonerate me of the robbery of Rafael Haro. Lopez robbed Haro. I did not rob Haro. I will explain my investigation and the need for Lopez prints to present as an exhibit in support of my petition for writ of habeas corpus to the California Supreme Court.

Jesus H. Lopez, D.O.B., December 25, 1967, 1968, or 1969, prints are on file in the San Diego Superior Court. In January through August 2004, Lopez was sentenced in San Diego Superior Court to 23 years. Lopez CDR # V-34389, is currently housed at Mule Creek State Prison, P.O. Box 409000, Irms, CA. 95640.

According to Judicial Council Form CR-100, every defendant that is sentenced shall permanently maintain his prints in the Court's file. Penal Code 992. See Exhibit A.

On July 20, 1989, Rafael Haro and Ramon Cespedes testified at preliminary hearing that "another person" and myself robbed them. On October 3, 1989, I was convicted of both robberies. I received four years and paroled in 1991. Case Number CR105783.

In 1995 I had a jury trial for one count of kidnap Penal Code 207(a), Case Number SC112436. I testified and on cross examination I was questioned about the 1989 prior robbery case CR105783. I testified that I did not rob Rafael Haro. Haro was the first robbery victim. In 1995 during my trial I did not have evidence to support my claim of innocence. See Exhibit B, Rt 280-290, SC112436, 9-27-95.

Prior conviction CR105783 enhances my current custody case SC112436 a full thirteen (13) years.

I have been in pro per since 1998. On my own, I have gathered the following evidence:

- * District Attorney letter date May 21, 2003, which states Rafael Haro mis-identified me as the person that robbed him. Haro made this statement after preliminary hearing.
- * Eyewitness Juan Carlos Sanchez stated that I was not the person that robbed Rafael Haro.
- * Declaration by Jesus H. Lopez dated July 19, 2006, stating that he alone robbed Rafael Haro. That I did not rob Rafael Haro.

See Exhibits C, D, E.

Detective G. Padillo # 1716 stated that Detective Sullivan lifted several prints from inside / outside of Haro's car. See Exhibit F.

Lopez declaration clearly states that he was in Haro's car and that Lopez alone robbed Haro.

The connection is that the prints lifted by Detective Sullivan are Lopez prints. The Superior Court has Lopez prints on file, which match the prints lifted by Detective Sullivan. And Lopez declaration places him in Haro's car.

Enclosed is a stamped self addressed envelope for a response by the Records Clerk. Thank you very much.

Sincerely,

Leovardo Salceda
Leovardo Salceda, in pro per,
August 22, 2006.

DECLARATION OF LEOVARDO SALCEDA IN SUPPORT OF LETTER

REQUESTING JESUS H. LOPEZ FINGER PRINTS TO PROVE MY INNOCENCE

I, Leovardo Salceda, declare as follows:

- 1.) I make the following declaration of facts based on my own knowledge and, if called, can testify competently thereto.
- 2.) I am the defendant in People v Salceda, Case No. CR-105783. I am indigent and cannot afford to hire an investigator nor an attorney to help me prove my innocence.

2.

Ex.

Ex.

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss
I, Leonardo Salceda, the undersigned, certify, and do

declare that I am over the age of 18 years, incarcerated at Cuckawalla Valley State Prison, located at Blythe, CA and a party / not a party to the attached foregoing cause of action. On August 22, 2006, I did serve a true copy of:

Letter and declaration specifically explaining to the Clerk of the Court / Records Clerk why I need Jesus H. Lopez finger prints which are on file in the San Diego Superior Court.

[] by depositing it in a prison mail box in a sealed envelope, or [X] by handing it to institutional staff in a sealed envelope, along [X] with Inmate Trust Account Withdrawal Order Form attached to it requesting that postage be fully prepaid, or [] with postage affixed thereto for deposit in the United States Mail pursuant to California Code of Regulations Sections 3142 and 3165; addressed to the following:
Central Records Room 42
San Diego Superior Court
P.O. Box 120128
San Diego, California 92112-4104

Intended place of mailing: U.S. Post Office, at Blythe, California.

I further declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, and belief. Executed on August 22, 2006

Leonardo Salceda
PETITIONER/DECLARANT IN PRO PER

3.) I am in pro per and forced to conduct my own investigation and gathering evidence to prove my innocence of the robbery of Rafael Haro in CR105783.

4.) I am specifically raising a claim of innocence. I did not rob Rafael Haro. I am stating that Jesus H. Lopez alone on his own petition robbed Rafael Haro.

5.) The evidence I am gathering in good faith is independent corroborating evidence. The evidence is exculpatory in nature and I will present it in a petition for writ of habeas corpus to make a prima facie case for relief. I will file said petition in the California Supreme Court.

6.) In 1995 I testified in my current custody case SCD-112436 and testified that I did not rob Rafael Haro. Haro was the first robbery victim in CR105783. At that time in 1995 I did not have the exculpatory evidence I now have. Had I had the evidence I now have, i.e., district attorney letter, Sanchez statement, and Lopez declaration, I would have presented it to Judge Amos whom presided over my trial or given it to defense counsel, or present

7.) I need Jesus H. Lopez prints which are in the San Diego Superior Court files because specifically I will present Lopez prints as an exhibit to the Supreme Court. I will also present the prints lifted by Detective Sullivan which match Lopez prints.

8.) The declaration of Lopez clearly states that he alone robbed Haro. Establishing that Lopez was in Haro's car. The prints Detective Sullivan lifted from Haro's car match Lopez prints on file in the Superior Court. Three (3) pieces of corroborating evidence combined support my claim of innocence that I did not rob Rafael Haro.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. This declaration was executed on August 22, 2006, at Blythe, California.

Respectfully submitted,
Leonardo Salceda
Leonardo Salceda

Ex.

Ex.

Exhibits

- F RT 238-239, Mangarin Acknowledges He Just Received Petitioner's Case on Conflict of Interest, SCD112436
- F1 RT 31-35, Trial Court, Prosecutor, Mangarin discuss Using Prior Robbery Case CR105783 To Impeach Petitioner's Testimony In The Instant Case SCD112436
- F2 RT 666-667, Mangarin Tells The Trial Court He Believes The Prior Robbery Case CR105783 Is A "Court Trial" (Mangarin Was Wrong. It Was A Slow Plea)
- F3 Mangarin's Client File In Instant Case SCD112436, Case Activity Log, 8-15-95 Through 12-29-95. And Then 6-12-97 For Re-Sentencing
- F4 RT 463-465, Mangarin Admits To Trial Court He Did Not Review Prior Conviction Documents Used For Trial on Prior Convictions

1 Mr. Salceda was falling all over himself, staggering,
2 what have you, I think as to whether that would in the
3 minds of the jury create a reasonable or unreasonable
4 apprehension of fear, I think that is a matter for a
5 jury to decide the degree of it. I don't know whether
6 any of the witnesses can come in and say based on what
7 I observed, Mr. Champion himself would have had the
8 apprehension of fear. They can testify as to
9 Mr. Salceda's mannerisms and what he was doing right
10 before the incident.

11 THE COURT: I have outlined the three areas that
12 I think it might be relevant in. I am going to give
13 Mr. Mangarin a chance to talk to his witnesses and make
14 us an offer of proof, but those are the areas that I
15 see possible relevancy and those are the areas that I
16 may permit this testimony to come in.

17 MR. GROCH: I would ask the Court then to order
18 that the investigator who took these statements be
19 produced so I can impeach these witnesses if they
20 change their story, as well as the three witnesses who
21 made the statements that I have, be ordered to come in
22 under the defendant's subpoena, so that way if they --
23 in other words, these witnesses are going to testify
24 contrary to the potential offer of proof, and so I
25 would like them made available, as well as the
26 investigator who took the statements, to impeach, if
27 necessary.

28 MR. MANGARIN: Your Honor, that's not a correct

1 statement. I don't see anything contrary. He has one
2 paragraph statements from these individuals. For you
3 to order him to be produced, your Honor, I don't have
4 any control over that, because that investigator is not
5 working in my office. He is with the public defender's
6 office.

7 We got this case just recently on a
8 conflict. Rocco Pelletier is the name of the
9 investigator. I have had no contact with
10 Mr. Pelletier. I guess he's subject to subpoena by
11 Mr. Groch.

12 MR. GROCH: Well, then, the people that he does
13 have control over his subpoenas, and that I have
14 statements from, are Gabriela Murgo, Jesse Guerrero,
15 and Alma Ramos, all of whom indicate the defendant is a
16 rowdy, belligerent drunk.

17 MR. MANGARIN: Alma Ramos is not one of the
18 persons I would intend to call. I would love to be
19 able to call her, but she did not see Mr. Salceda on
20 the day of the incident. Mr. Guerrero and Miss Murgo
21 are two of the witnesses I will be talking to tonight.

22 THE COURT: Okay. So potential witnesses will
23 include Mr. Guerrero; correct?

24 MR. MANGARIN: Yes.

25 THE COURT: Miss Murgo?

26 MR. MANGARIN: Yes.

27 THE COURT: Who are the other ones?

28 MR. MANGARIN: Carmen Lopez and Manuel Espinosa.



1 handled in the past, simply tell them up front we're
2 going to tell you this is a three strike case. Does
3 anyone on the panel have any feelings so strong either
4 for or against the three strike law so as to cause them
5 not to be able to serve as a fair and impartial juror.

6 THE COURT: You realize that what we're doing is
7 we're telling the jury that your client has two prior
8 felonies?

9 MR. MANGARIN: That's correct, your Honor. I
10 understand that fully. And at this point on the
11 record, I will state that it is my full intent at this
12 point to have Mr. Salceda testify and take the stand.
13 He will then be subject to advising the jury in that
14 regard anyway that he has a prior felony record.

15 THE COURT: I haven't ruled on whether or not
16 these priors would be used for impeachment. It would
17 appear, of course, that they involve moral turpitude.
18 They're certainly not old, '89 and '93.

19 It's true it's the People's position they
20 want to use these for impeachment; correct?

21 MR. GROCH: That's correct, your Honor. And the
22 only additional prior is a 10851, also from the same
23 year as the robbery, same case.

24 THE COURT: Mr. Mangarin, do you wish to say
25 anything about whether or not these could be used for
26 impeachment purposes?

27 MR. MANGARIN: Your Honor, Mr. Groch and I
28 discussed addressing that issue at a later point. At

1 this point --

2 THE COURT: I think it's important to address it
3 now.

4 MR. MANGARIN: We'll state our objection.

5 THE COURT: The reason I want to, it's important
6 to address it now, because for some reason they were
7 not used for impeachment, then the only way they would
8 come before this jury is me telling them right up front
9 your client's got two prior felonies. So I think it's
10 important to make that ruling now.

11 So do you want to be heard on whether or
12 not these could be used for purposes of impeachment?

13 MR. MANGARIN: We have two robberies, your Honor,
14 we have a theft of an automobile, we have assault with
15 a deadly weapon.

16 We would ask that the assault with the
17 deadly weapon not be used for impeachment purposes,
18 that being arguably not a crime of moral turpitude.
19 That be deleted.

20 With respect to the two robberies, the
21 robbery, two of them, the two counts come from the same
22 offense, we would ask the Court to present it, if the
23 Court is inclined to present it, weren't you convicted
24 of a robbery back in 1991, whatever the year was. If
25 the Court should feel --

26 THE COURT: Your argument is I shouldn't allow
27 the assault because it's too similar to the charges
28 herein, but the robbery and the 10851 would be

1 permissible?

2 MR. MANGARIN: Yes.

3 THE COURT: That's what I'll do. You can use the
4 robbery and the 10851 to impeach him. You have got
5 sufficient to impeach him on the basis of prior
6 felonies. I will utilize my discretion weighing the
7 prejudicial value against the probative effect to keep
8 out the 1993 for purposes of impeachment.

9 MR. GROCH: Well, your Honor, I would ask that I
10 not be precluded from that. I mean, the facts are the
11 facts, and the reason we get into the Castro priors is
12 because it does talk about the defendant's credibility,
13 and I don't think it should be completely expunged.

14 If the Court is uncomfortable with the
15 nature of the charges, then I think we could call it a
16 serious felony or --

17 THE COURT: I think two prior felonies would be
18 sufficient for you to attack him on the grounds of lack
19 of credibility. I think the addition of this one
20 further felony does little, if anything, to assist you
21 in your attack. I think the prejudicial value there is
22 it outweighs any additional probative ruling. '93 will
23 not be utilized.

24 Now, the only way, then, is that if your
25 client takes the stand, that's the only way they would
26 come before this jury. But you still want me to
27 inquire up front about their feelings on a three strike
28 case, Mr. Mangarin; is that correct?

1 MR. MANGARIN: Yes, your Honor. We have made a
2 tactical decision in our case, and that is what we
3 want.

4 MR. GROCH: Your Honor, if that's the case, I
5 think the prejudice is lessened, and I would further
6 argue to the Court that the recency in time of the 245
7 shows a pattern of moral turpitude conduct, and he is
8 to be untrusted as a witness.

9 And further, I anticipate getting into both
10 the 245 as well as the 211s in an 1101(b) nature,
11 because in both of those cases he stated I was drunk
12 and I don't remember what I did, which is what I
13 anticipate he's going to state on the stand, and yet
14 later, at least in the robbery, he said yeah, I did do
15 that. And in the 245 did admit guilt. And so I plan
16 on getting into that as 1101(b) anyway.

17 So in light of the fact that they know it's
18 a two strike -- three strikes case, and I do anticipate
19 getting into the 245 and 1101(b) nature, I would be
20 asked to impeach on it as well.

21 THE COURT: Well, at this point you will not be
22 allowed to impeach on it. If he testifies and you
23 think it comes under 1101(b), I will take a look at
24 it.

25 Mr. Salceda.

26 THE DEFENDANT: Yes, sir.

27 THE COURT: Have you discussed this with your
28 attorney?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: You understand what your attorney
3 wants me to do is to ask this prospective panel about
4 their feelings on three strike cases. That means that
5 I will be telling them in essence that you have two
6 strikes against you before we start the case.

7 Do you understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And you're in agreement?

10 THE DEFENDANT: Yes, I am.

11 THE COURT: Okay. I will ask the questions. All
12 right.

13 MR. GROCH: And, your Honor, in the course of the
14 questions about three strikes, will the Court also
15 remind the jury that they're not to consider that in
16 penalty or punishment in the issue of guilt, and that's
17 why you're letting them know up front that it's a three
18 strikes case, to make sure they can put that out of
19 their heads?

20 THE COURT: Yes.

21 MR. GROCH: Thank you.

22 THE COURT: All right. I'll step down, bring
23 them in.

24 (Whereupon, at 11:14 a.m. jury voir dire
25 commences.)

26 (Whereupon, at 3:37 p.m. jurors were duly
27 sworn.)

28 (People's Exhibits 1 through 8,

1 as well.

2 The second case, your Honor, 1982, was
3 the assault with a deadly weapon, and he pled to
4 the 1192, use of a deadly weapon. Mr. --
5 Mr. Courubias is in the audience today, and he was
6 there at that incident. I have interviewed
7 Mr. Courubias, and Mr. Salceda got the benefit in
8 that case in that he got 270 days in return for his
9 plea, but I would say that that case was
10 [defensible,] and that's the same as in this case in
11 which the jury did not come in with a guilty
12 verdict, and the assault, picks up a brick in this
13 situation, and a half a block away, three or four
14 individuals had sticks, and there is a standoff at
15 that point, and he puts the brick down and he is
16 charged. He is taken off detox, and Mr. Courubias
17 thinks he is being taken down there only for detox
18 and finds out later that he has pled and got the
19 270 days, but that was a second strike or a second
20 incident.

21 He doesn't have a real egregious
22 criminal history as a juvenile or adult, and
23 certainly he has his third strike, technically, but
24 the situation given, what we have of the current
25 offense, and given particularly the second offense
26 that he pled to the second strike, and the second
27 incident.

28 He is a person that could turn his life

Exhibit J-5

1 around, and he was doing that before this incident
2 happened.

3 As I have indicated before, he has two
4 children, a family. He was not in the
5 neighborhood. He was receiving treatment for his
6 alcohol problem at Saint Vincent De Paul at one
7 point, and in the course of his emotional times
8 with his estranged wife, he fell off the wagon, and
9 started drinking back some time in April of this
10 year and now started finding himself in the
11 situation that he is in today.

12 THE COURT: Well, actually, there are three
13 strike priors; isn't that true?

14 MR. MANGARIN: Yes, the first was the '89
15 case. He was found guilty of two separate counts
16 on that in a court trial with Judge Mudd
17 represented by Mr. Youmans, public defender's
18 office. And then the 1992 case, I believe it was
19 an assault with a deadly weapon involving the
20 individual by his house.

21 THE COURT: So you have indicated, I would
22 have to be able to strike not one, but two of
23 these, to do anything but impose the 25 to life.
24 Isn't that correct?

25 MR. MANGARIN: Well, your Honor, I think you
26 do have the authority under the Salazar case. I
27 can give you the cites to impose sentence, the
28 great extent of that, and that is as far as I see,



Client file

DEPARTMENT OF THE ALTERNATE PUBLIC DEFENDER
Central Case Activity Log

CLIENT INFORMATION

Client Name: LEOVARDO SALCEDA

Attorney Name: MANGARIN

Client Date Of Birth: 8/20/69 APD Case #: A6CF0160 Class/Location: C58

DA Case #: P06236901

MC#: CD112436

SC#:

Date	Time	Atty	DA	Judge	Event	Result	Date
		(TF) (CL)			231-3510 Gabriela Salceda		
8/15	1.5	237-5531 Mother -		(RW) File	discovery /		
		Telephone conf w/ client -					
		Letter from client					
9/3	2.5	Conf w client at Bailey			re strategies / recollection / exposure -		
9/12	1.0	Letter from client /			Meeting at office with D		
		Mom : who's Nacho - answered all questions					
9/15	1.0	Appear M-1	Reasons	DDA Berry	Judge Ramos -		

Plea/Offense: PC 209 CLOSE OUT SUMMARY Date Closed: 1-7-00

Disposition:

 1368 Acquittal (Major Count) Conflict Counsel Witness
 Dismissed Diversion Failure To Appear Jury Trial (Guilty) X
 Jury Trial (Mistrial/Dismissed) Relieved Retained Private Attorney

Sentence:

 Calif Youth Auth Diversion Fine Honor Camp Restitution
 State Prison X Ward Own Home Probation (County Jail)
 Probation (Credit For Time) Probation (No Jail)

Attorney Hours: 90.2 Investigator Hours: Investigator Mileage:

Motions filed: Judge: Result:

Expert Services Index Expert Services for future Reference?

Name: Fee: Topic:

Name: Fee: Topic:

UNUSUAL POLICE ACTIVITY

Name of Officer: ID#:

Agency:

Unusual Activity Number:

UNUSUAL ACTIVITY

1. Questionable Arrest/Detention
2. Other Credibility Problems
3. Use of Excessive Force
4. Cultural/Racial Bias

 Defense Attorney
 Daniel J. Mangarin
 Case SCD112436

 Codes
 Dispo 6
 Sent 33
 Contact

Exhibit

Case Activity Log

Date	Time	Atty DA Judge Event Result Next Date/Time
		Trial confirmed 9/20/97 DDA stated no offer in light of - No prior record / Judge Jones appeared to agree this is case probably for jury trial. Advised about defense - requested mental expert re "black out" may not address all charges - (Eg Agreed see cts 2 & 4) general info w.r.t mother Review all contacts Prepare for trial - Prepare witness list.

Daniel J. Mangarin
Case SCD112436 Exhibit

[illegible]

Daniel J. Mangarin, Esq.
Case SCD 112436

Exhibit 7-1

Department Of The Alternate Public Defender
Case Activity Log

Date	Time	Atty	DA	Judge	Event	Result	Next Date/Time
------	------	------	----	-------	-------	--------	----------------

30. Prepare for trial

48 hrs TRIAL - i. prepare

1.0 PHS.

5.2 Motion for new trial / strike strike

90.2 Ct struck 2 strikes - D sent 12 yrs

Daniel Mangarin, Esq.
Case SC0112436

Exhibit 11



1 anybody, and no one can force you to discuss this
2 case.

3 If you choose to discuss the case, you can
4 do so at a place and time of your own choosing. In the
5 event someone continues to pester you or disturb you
6 about discussing the case, you do not want to discuss
7 the case, feel free to contact the Court and we will
8 take steps to remedy that situation.

9 Each of you has a right to have your own
10 personal information sealed, and there is a form which
11 will be available on the way out. If you fill that
12 form out, I will sign the appropriate order having your
13 personal information related to this case and the other
14 case that you sit on sealed.

15 Again, let me thank you for the time and
16 effort that you put in on this case.

17 Are they finished with their tour? You are
18 finished with your tour of service, so you are
19 discharged. Thank you once again.

20 MR. GROCH: If anyone would like to discuss the
21 case or answer any questions, we'll be out in about two
22 minutes.

23 THE COURT: I'll have the attorneys here for a
24 few moments and they'll be outside.

25 (The following proceedings were had in open
26 court, outside the presence of the jury:)

27 THE COURT: We're outside the presence of the
28 jurors.

1 We have the other part of the trial that we
2 need to handle with respect to the priors. There has
3 been a jury waiver. Yes.

4 All right. We need to set a time for the
5 remaining portion. What's the time estimate, do you
6 expect?

7 MR. GROCH: 30 minutes.

8 THE COURT: Have you seen all the packets and so
9 forth, Mr. Mangarin?

10 MR. MANGARIN: You provided --

11 MR. GROCH: I believe I have.

12 THE COURT: All right.

13 MR. MANGARIN: I am not sure, your Honor, but I
14 don't think it's going to be a problem seeing them, if
15 I can get them before the hearing.

16 THE COURT: I am trying to think when a good time
17 to schedule it will be.

18 MR. MANGARIN: We discussed this. I start a
19 trial on Thursday. Tomorrow we're available all day,
20 and I understand you're selecting a jury, but any time
21 tomorrow, but if not tomorrow, then at your convenience
22 any date, your Honor.

23 THE COURT: When do you start your next case
24 Thursday?

25 MR. MANGARIN: Thursday.

26 THE COURT: What time do you report? Nine
27 o'clock?

28 MR. MANGARIN: 8:45.

1 THE COURT: Why don't we try and do it four
2 o'clock tomorrow. I will just let this jury go early
3 that I have and we'll do it at four o'clock tomorrow.
4 How is that?

5 MR. GROCH: That's fine.

6 THE COURT: So we'll continue the trial on the
7 priors and we'll handle that at four o'clock tomorrow.
8 Okay.

9 MR. GROCH: Thank you, your Honor.

10 THE COURT: Thank you.

11 (Whereupon, at 5:07 p.m. the hearing
12 adjourned.)

13

14

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Exhibits

- G Prior Robbery Case, Preliminary Hearing Transcript (Excerpts) Pages 4-9, 21-25,
CR105783, 7-14-89
- G1 Prior Robbery Case (Excerpts), Fingerprints Lifted From Rafael Haro' Car.
Marijuana Baggies Found In Haro's Car (also held for prints), CR105783, 6-30-89

1 THE COURT: HAVE A SEAT UP HERE, PLEASE.

2 JUST PULL THAT MICROPHONE TOWARDS YOU, IF YOU
3 WOULD, MR. HARO.

4

5 DIRECT EXAMINATION

6 BY MS. GAYLE:

7 Q MR. HARO, WOULD YOU STATE YOUR FULL NAME, PLEASE,
8 AND SPELL YOUR LAST NAME?

9 A RAFAEL S. HARO, H-A-R-O.

10 Q DO YOU OWN AN AUTOMOBILE, MR. HARO?

11 A DO I KNOW WHAT?

12 Q DO YOU OWN A CAR?

13 A YES, MA'AM.

14 Q DID YOU OWN A CAR ON JUNE 30TH, 1989?

15 A YES, MA'AM.

16 Q WHAT TYPE OF CAR DID YOU OWN?

17 A CAPRICE CLASSIC '77.

18 Q ALL RIGHT. AND WHAT COLOR IS THAT CAR?

19 A BEIGE.

20 Q AND DO YOU HAVE LICENSE PLATES ON IT?

21 A YES.

22 Q CAN YOU TELL ME WHAT THE LICENSE PLATE READS?

23 A RUQUITO.

24 Q SPELL THAT PLEASE?

25 A R-U-Q-U-I-T-O.

26 Q ARE THOSE CALIFORNIA LICENSE PLATES?

27 A YES, MA'AM.

28 Q DO YOU RECALL WHETHER OR NOT YOU WERE IN YOUR CAR

8 1 AT APPROXIMATELY 9:00 P.M. ON JUNE 30TH, 1989?

2 A YES, MA'AM.

3 Q DO YOU RECALL WHERE YOU WERE LOCATED IN YOUR CAR?

4 A YEAH, I WAS SITTING.

5 Q OKAY. DIRECTING YOUR ATTENTION TO JUNE 30TH, 1989,

6 AT ABOUT 9:00 CLOCK AT NIGHT, WHERE WAS YOUR CAR?

7 A ON 61ST STREET.

8 Q IS THAT 61ST STREET, IS THAT IN SAN DIEGO COUNTY?

9 A YES, MA'AM.

10 Q OKAY. WAS ANYONE ELSE IN YOUR CAR?

11 A NO.

12 Q DID ANYTHING UNUSUAL HAPPEN AT THAT TIME AND PLACE?

13 A YEAH, I GOT ROBBED.

14 Q WERE YOU ROBBED BY ONE PERSON OR MORE THAN ONE

15 PERSON?

16 A TWO.

17 Q OKAY. ARE EITHER OF THE TWO PEOPLE THAT ROBBED YOU

18 PRESENT IN THE COURTROOM?

19 A YES.

20 Q COULD YOU POINT TO --

21 A RIGHT THERE.

22 Q ALL RIGHT. IS THAT THE ONLY PERSON?

23 A IT WAS ANOTHER ONE WITH HIM.

24 Q IS THAT OTHER PERSON IN THE COURTROOM?

25 A NO.

26 Q OKAY.

27 THE COURT: RECORD CAN REFLECT THE WITNESS HAS POINTED TO
28 THE DEFENDANT LEOVARDO SALCEDA.

1 BY MS. GAYLE:

2 Q WHERE EXACTLY WERE YOU, AND BY THAT I MEAN IN YOUR
3 CAR OR OUT OF THE CAR, WHEN YOU FIRST SAW THE DEFENDANT ON THAT
4 NIGHT?

5 A I WAS SITTING -- I WAS LISTENING TO THE RADIO. I
6 WAS SITTING IN MY CAR.

7 Q WHERE WAS THE DEFENDANT WHEN YOU FIRST SAW HIM?

8 A HE WENT AROUND IN FRONT OF ME, HE CAME THIS WAY,
9 OPEN THE DOOR AND STARTED PULLING ME OUT.

10 Q WHEN YOU SAY HE CAME AROUND, DO YOU MEAN THAT HE
11 WALKED IN FRONT OF YOUR CAR?

12 A UH-HUH.

13 Q IN FRONT AROUND HERE?

14 A AND THEN HE OPENED THE DOOR.

15 Q AND THEN HE CAME OVER TO THE PASSENGER SIDE?

16 A UH-HUH.

17 Q PLEASE, I'M GOING TO TRY NOT TO TALK WHILE YOU'RE
18 TALKING AND THAT MAKES IT EASIER FOR THE COURT REPORTER.

19 DID HE SAY ANYTHING TO YOU?

20 A "GIVE ME THE MONEY."

21 Q WAS HE HOLDING ANYTHING WHEN HE SAID THAT TO YOU?

22 A NO.

23 Q WHAT DID YOU DO WHEN HE MADE THAT STATEMENT?

24 A I TRIED TO FIGHT BACK.

25 Q HOW DID YOU TRY AND FIGHT BACK?

26 A BECAUSE I WAS SITTING ON THE STEERING WHEEL AND I
27 TRIED TO FIGHT BACK AND THE OTHER GUY THAT WAS WITH HIM, BEHIND
28 HIM, HE PUT THE GUN ON MY HEAD, AND SAY, "DON'T DO IT, I'LL BLOW

1 YOUR HEAD OFF, JUST GIVE ME THE MONEY, GIVE ME THE MONEY."

2 Q OKAY. NOW, YOU'RE INDICATING THAT THE OTHER PERSON
3 THAT ROBBED YOU, THAT THE ONE THAT'S NOT HERE TODAY?

4 A UH-HUH.

5 Q HE ALSO CAME OVER TO YOUR CAR?

6 A UH-HUH.

7 THE COURT: MR. -- SAY YES OR NO RATHER THAN UH-HUH SO
8 THE LADY CAN WRITE IT DOWN. THANK YOU.

9 THE WITNESS: OKAY.

10 BY MS. GAYLE:

11 Q NOW, THE OTHER PERSON, YOU SAID HE HAD A GUN?

12 A YES.

13 Q DID YOU SEE THE GUN?

14 A YES.

15 Q WAS IT A HANDGUN?

16 A YES.

17 Q WHAT DID HE DO WITH THE GUN?

18 A HE JUST PUT IT ON ME.

19 Q HE HELD IT TO YOUR HEAD?

20 A (NODS HEAD.).

21 Q WHAT DID HE SAY WHEN HE HELD THE GUN TO YOUR HEAD?

22 A I WAS TRYING TO FIGHT BACK. HE SAYS, "DON'T DO IT
23 OR I BLOW YOUR HEAD OFF, JUST GIVE HERE YOUR MONEY, GIVE ME YOUR
24 WALLET."

25 Q OKAY. WHAT HAPPENED AFTER THAT?

26 A HE TOOK MY WATCH, MY CHAINS AND THE MONEY I HAD ON
27 MY RIGHT POCKET.

28 Q WHEN YOU SAY HE, WHO ARE YOU REFERRING TO?

1 A HIM.

2 Q THE DEFENDANT?

3 A YEAH.

4 Q HE TOOK YOUR WALLET?

5 A NO, HE DIDN'T. I FIGHT WITH HIM.

6 Q YOU HAD A FIGHT WITH HIM. DID HE TAKE ANYTHING
7 FROM YOU?

8 A MY WALLET AND MY CHAINS AND MONEY I GOT RIGHT HERE
9 IN THIS POCKET.

10 Q WHAT DID HE DO AFTER HE TOOK THAT FROM YOU?

11 A I -- I GOT OUT OF THE CAR AND RUN AND HE WAS BEHIND
12 ME, AND WE WERE FINALLY ACROSS THE STREET. HE TRIED TO GET MY
13 WALLET, BUT I DIDN'T LET HIM, BECAUSE I HAD MY PAPERS IN IT.

14 Q OKAY. AFTER HE FOLLOWED YOU ACROSS THE STREET --

15 A UH-HUH.

16 Q -- THERE WAS A STRUGGLE? YES?

17 A YES.

18 Q AND HE WAS ATTEMPTING TO GET YOUR WALLET?

19 A YES.

20 Q WAS HE ABLE TO TAKE YOUR WALLET FROM YOU?

21 A NO, I DIDN'T LET HIM.

22 Q WHAT HAPPENED AFTER THAT?

23 A THE OTHER GUY STARTED TO COME, HE RUN WITH HIM AND
24 THEN THEY RUN OFF.

25 Q HOW DID -- DID YOU SEE THEM LEAVE?

26 A YEAH.

27 Q HOW DID THEY LEAVE?

28 A THEY JUST RUN TOWARDS IMPERIAL.

1 Q OKAY. AND WHAT HAPPENED TO YOUR CAR?

2 A WE WENT -- ME AND THE OTHER GUY, THE ONE THAT WAS
3 WITH ME, SANCHEZ, WE WENT TO 62ND STREET. THERE I PHONE 911 TO
4 MAKE A REPORT, AND ABOUT 15 MINUTES LATER, THEY CALL ME BACK,
5 AND THEY SAY THEY GOT MY CAR AND AND IT WAS INVOLVED IN A GAS
6 STATION ROBBERY.

7 Q LET'S BACK UP. OKAY. AFTER THE DEFENDANT FOLLOWED
8 YOU ACROSS THE STREET AND TRIED TO TAKE YOUR WALLET AND YOU
9 WOULDN'T LET HIM, THEY WENT AWAY, CORRECT?

10 A YES.

11 Q DID THEY LEAVE ON FOOT?

12 A NO, ON MY CAR.

13 Q THEY TOOK YOUR CAR?

14 A YES.

15 Q DID YOU SEE THEM DRIVING OFF IN YOUR CAR?

16 A YES.

17 Q WAS THE DEFENDANT IN YOUR CAR WHEN HE DROVE OFF?

18 A YES.

19 MS. GAYLE: OKAY. I HAVE NO FURTHER QUESTIONS OF THIS
20 WITNESS, YOUR HONOR.

21 THE COURT: CROSS-EXAMINE.

22 MR. YOUMANS: THANK YOU, YOUR HONOR.

23

24 CROSS-EXAMINATION

25 BY MR. YOUMANS:

26 Q THIS INDIVIDUAL THAT YOU HAVE DESCRIBED AS THE
27 DEFENDANT, WHAT WAS HE WEARING THAT NIGHT?

28 A HE WAS WEARING A HAT.

1 MR. YOUMANS: NO, YOUR HONOR.

2 THE COURT: ALL RIGHT. THANK YOU, MR. HARO, YOU MAY STEP
3 DOWN. YOU ARE EXCUSED, YOU ARE FREE TO LEAVE OR YOU CAN REMAIN
4 AND LISTEN IF YOU'D LIKE.

5 THE WITNESS: THANK YOU.

6 MS. GAYLE: THE PEOPLE CALL RAMON CESBETS.

7

8

RAMON CESBETS,

9

CALLED AS A WITNESS BY AND ON BEHALF OF THE PEOPLE,

10

HAVING BEEN FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

11

12

THE COURT: JUST HAVE A SEAT RIGHT UP HERE MR. CESBETS.

13

14

DIRECT EXAMINATION

15

BY MS. GAYLE:

16

Q MR. CESBETS, CAN YOU STATE YOUR FULL NAME, PLEASE,

17

AND SPELL YOUR LAST NAME?

18

A RAMON CESBETS, THAT'S R-A-M-O-N, CAP C-E-S-B-E-T-S.

19

Q ARE YOU EMPLOYED, MR. CESBETS?

20

A YES.

21

Q BY WHOM ARE YOU EMPLOYED?

22

A TEXACO.

23

Q WAS TEXACO YOUR EMPLOYER ON JUNE 30TH, 1989?

24

A YEAH.

25

Q WERE YOU WORKING ON THAT DAY AT ABOUT 10:00 THAT

26

NIGHT?

27

A YEAH.

28

Q AT WHAT LOCATION WERE YOU WORKING?

1 A WELL, I WORK AT THE GAS STATION, 1025 LINCOLN
2 AVENUE.

3 Q YOU WERE WORKING AT THAT LOCATION ON THE NIGHT OF
4 THE 30TH?

5 A YEAH, UH-HUH.

6 Q IS THAT LOCATED IN SAN DIEGO COUNTY?

7 A YEAH.

8 Q DID ANYTHING UNUSUAL HAPPEN ABOUT 10:00 ON THAT
9 NIGHT?

10 A I SAW SOMEBODY TRY TO GO THERE AND TRY TO ROB ME
11 UP.

12 Q SOMEBODY TRIED TO ROB YOU?

13 A YEAH.

14 Q WAS THIS SOMEONE ONE PERSON OR MORE THAN ONE
15 PERSON?

16 A IT WAS TWO IN THE CAR, YOU KNOW, I RECOGNIZE ONLY
17 ONE.

18 Q IS EITHER OF THE PEOPLE THAT ATTEMPTED TO ROB YOU
19 ON THAT NIGHT PRESENT IN THE COURTROOM?

20 A YEAH.

21 Q OKAY. COULD YOU POINT TO THAT INDIVIDUAL AND
22 DESCRIBE WHAT HE'S WEARING?

23 A OVER THERE IN THE BLUE CLOTHES ON.

24 THE COURT: RECORD CAN SHOW THE WITNESS HAS POINTED AT
25 THE DEFENDANT LEOVARDO SALCEDA.

26 BY MS. GAYLE:

27 Q OKAY. WHAT WERE YOU DOING WHEN YOU FIRST SAW THE
28 DEFENDANT?

1 A WELL, HE ASKED ME THREE TIMES, I MEAN, HE ASK ME TO
2 OPEN THE CASHIERS, AND THEN I LOOK TO HIM, I LOOKED -- TO HIS
3 GUN TO SEE IF HE IS PULLING ME, AND HE ASK ME THREE TIME TO OPEN
4 THE BOX. I OPEN FOR HIM.

5 Q LET ME GO BACK A MINUTE. WHEN YOU FIRST SAW THE
6 DEFENDANT, WERE YOU NEAR A CASH REGISTER?

7 A UH-HUH.

8 THE COURT: ANSWER YES OR NO, PLEASE.

9 THE WITNESS: YES.

10 BY MS. GAYLE:

11 Q SO WERE YOU WORKING IN A LITTLE BUILDING?

12 A YEAH.

13 Q OKAY. AND THE DEFENDANT APPROACHED YOU?

14 A UH-HUH, YEAH.

15 Q DID HE SAY ANYTHING TO YOU?

16 A YEAH, TO OPEN THE CASHIER.

17 Q WHAT DID YOU DO WHEN HE SAID THAT TO YOU?

18 A JUST LOOK TO HIM.

19 Q OKAY. AND WHAT DID HE SAY AFTER THAT?

20 A "OPEN THE CASHIER."

21 Q AND WHAT THEN WHAT DID YOU DO?

22 A THE THIRD TIME I OPEN, YEAH.

23 Q OKAY. WAS THE DEFENDANT HOLDING ANYTHING IN HIS
24 HAND WHEN HE MADE THE STATEMENTS TO YOU?

25 A A GUN.

26 Q I'M GOING TO ASK YOU TO LET ME FINISH MY QUESTION
27 BEFORE YOU ANSWER.

28 A OKAY.

1 Q HE WAS HOLDING A GUN?

2 A UH-HUH.

3 Q WAS IT A HANDGUN?

4 A YEAH.

5 Q WHERE WAS HE HOLDING IT?

6 A IN HIS RIGHT HAND.

7 Q WAS HE POINTING IT AT ANYTHING?

8 A YEAH, HE POINT ON ME.

9 Q OKAY. SO YOU OPENED THE DRAWER?

10 A UH-HUH.

11 Q WHAT HAPPENED NEXT?

12 A THEN I OPEN, HE PUT HIS HANDS, TAKE THE MONEY.

13 Q AND WHAT DID HE DO AFTER HE TOOK THE MONEY?

14 A I JUMPED ON HIM.

15 Q YOU JUMPED ON HIM?

16 A YEAH.

17 Q WAS THERE A STRUGGLE?

18 A YEAH.

19 Q WHAT HAPPENED AFTER THE STRUGGLE?

20 A SHOOTING, HE SHOOT ONE TIME.

21 Q HE SHOT AT YOU?

22 A YEAH.

23 Q WAS THE GUN POINTED AT YOU WHEN HE SHOT?

24 A IT WAS POINTED ON ME BUT I WAS MOVING, BY THE TIME

25 HE SHOT.

26 Q WHAT DID HE DO AFTER HE SHOT THE GUN?

27 A I JUMP ON HIM, YOU KNOW, TRY TO GET THE MONEY BACK.

28 Q WHAT HAPPENED THEN?

1 A THEN WE WRESTLED TOGETHER, RIGHT, AND HE TAKE OFF.
2 Q OKAY. DID HE DRIVE OFF OR DID HE LEAVE ON FOOT?
3 A NO, HE GET IN THE CAR, INSIDE OF THE CAR.
4 Q DID YOU GET A LOOK AT CAR?
5 A YEAH.
6 Q WHAT COLOR WAS THE CAR?
7 A BROWN CAR.
8 Q DO YOU KNOW WHAT KIND IT WAS?
9 A LIKE A CAPRICE, YOU KNOW.
10 Q A CAPRICE?
11 A YEAH.
12 Q OKAY. DID YOU HAPPEN TO GET A LOOK AT THE LICENSE
13 PLATE?
14 A YES.
15 Q DO YOU RECALL WHAT THE LICENSE PLATE READ?
16 A RUQUIDO.
17 Q COULD YOU SPELL THAT?
18 A R-U-Q-U-I-D-O.
19 Q AND WHAT DID YOU DO AFTER THEY DROVE ON?
20 A CALLED THE POLICE, PUSHED THE BUTTON.
21 MS. GAYLE: NO FURTHER QUESTIONS, YOUR HONOR.
22 THE COURT: CROSS-EXAMINE.
23
24 CROSS-EXAMINATION
25 BY MR. YOUMANS:
26 Q MR. CESBETS, WHAT WAS THE LIGHTING LIKE IN YOUR GAS
27 STATION THAT NIGHT?
28 A THE LIGHT? A LOT OF LIGHT IN THERE.



Investigator's Follow-up Report
SDPD Crime Case #89-073756
Page 4

On June 5, 1989 at 0930 hours, Rafael HARO was shown a photographic lineup, consisting of five colored polaroid photographs. Prior to viewing any photographs, HARO was admonished per S.D.P.D. Photo Lineup Form and told that he could lay out the photographs in front of him. On viewing the photos, he immediately pointed to photograph #4 (Leo SALCEDA) and stated, "That's the fucker, Leo. That's the mother fucker right there." He signed the bottom of the form.

On July 5, 1989, Detective SULLIVAN, S.D.P.D. Robbery Division, examined the stolen vehicle belonging to HARO, which had been impounded at San Diego Police Department Central Division. Several fingerprints were lifted from inside the vehicle. They will be impounded for later comparison.

I request that Leovardo SALCEDA be charged with two counts of Armed Robbery (Case numbers #89-073756 and #89-073762), further that he be charged with two counts of attempted murder, in that he fired two rounds from a weapon at victim CESPEDES, further that he be charged with one count of 10851 V.C. (Auto Theft) in that he took the vehicle belonging to HARO by force, further that he be charged with one count of 20002 V.C. in that, while fleeing from a felony, he became involved in a traffic accident and fled the scene.

APPROVED BY:

C.T. Martin

POSSIBLY WEARING A BASEBALL CAP. HE TOLD ME HE MIGHT BE ABLE TO IDENTIFY THE PASSENGER IF HE SAW HIM AGAIN.

OFFICER'S STATEMENT: I TOOK TWO PHOTOS OF THE GAS STATION, WITH BLANCHARD'S TRUCK IN THE SAME POSITION IT WAS IN WHEN HE WITNESSED THE ROBBERY. I ALSO TOOK TWO PHOTOS OF CEPESDES' INJURIES ON HIS LEFT ARM AND LEFT CHEEK. I CHECKED THE AREA FOR ADDITIONAL EVIDENCE BUT FOUND NONE.

DURING THE INVESTIGATION I RECEIVED A RADIO CALL THAT THE SUSPECT'S CAR HAD BEEN INVOLVED IN AN ACCIDENT ON AUBURN ST., AND TWO HISPANIC MALES HAD FLED THE SCENE. OFFICERS' FILLEY (4294) AND SWILLEY (4252) FROM EASTERN DIVISION RESPONDED AND RECOVERED THE CAR. (SEE THEIR REP. I ADVISED THEM TO HOLD THE CAR FOR PRINTS.

THE CAR HAD BEEN STOLEN DURING A ROBBERY AT 2045 AT 710 61ST ST. (SEE CASE # 89-073756).

IMPOUNDED ☐ RECOVERED ☐ STORED ☐ RELEASED - VEHICLE REPORT

ORDERING DEPARTMENT SAN DIEGO POLICE DEPARTMENT		SEAT NUMBER 317	CASE NUMBER 89-073756
STATION / ED/RECOVERED FROM 4700 AUBURN DR.		WAS NEIGHBORHOOD OR AREA CHECKED FOR WITNESSES, LEADS, CLUES? IF "YES", EXPLAIN IN REMARKS OR ON SEPARATE SHEET(S) <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO 89-073729	
STORAGE CONCERN NAME AND ADDRESS 3102 TOWING		TELEPHONE NUMBER 234-3275	DATE/TIME OF RECOVERY/IMPOUND 6-30-89 2200
ORDERED BY SDPD	HOME ADDRESS 1401 BROADWAY	RECOVERED/CALL IN TIME (3305) -	
BUSINESS ADDRESS		TELEPHONE NUMBER 531-2000	

DESCRIPTION AND OWNERSHIP										
MAKE CHEV.	MODEL CAPRICE	BODY TYPE 4DR	COLOR (COMBINATION) TAN	LICENSE NUMBER(S) RUQUITO	<input type="checkbox"/> ONE MONTH/YEAR <input checked="" type="checkbox"/> TWO 5-90	STATE CA.				
VEHICLE IDENTIFICATION NUMBER (VIN) N69L7C168226		ENGINE NUMBER (EN)		VIN COMPARE WITH REG. CARD <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	VIN APPEAR ALTERED/REMOVED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	VIN CLEAR IN SVS <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	LIC. NUMBER(S) CLEAR IN SVS <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			
TOLER, NAME, DATE AND CASE NUMBER OF REPORTING AGENCY D 6-30-89-89-073756				HOLDS PLACED FOR ROBBERY		BY FILLEY		WAS VEH. RETURNED TO OWNER <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		STORAGE AUTHORITY 22655(A) VC
REGISTERED OWNER LARO RAUFEL		ADDRESS [REDACTED]				TELEPHONE(S) (HOME AND BUSINESS) UNKNOWN.				
CO-OWNER		ADDRESS				TELEPHONE(S) (HOME AND BUSINESS)				

CONDITION AND INVENTORY (Use Remarks space or attach separate descriptions as needed.)									
METER READING 879.8		DRIVEABLE <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNKNOWN		HAVE YOU ENTERED MISSING, IDENTIFIABLE PARTS IN SVS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				* describe fully	
CONDITION	YES	NO	ITEMS PRESENT	YES	NO	ITEMS PRESENT	YES	NO	ITEMS
CRKED	<input checked="" type="checkbox"/>		SEAT (FRONT)	<input checked="" type="checkbox"/>		REGISTRATION	<input checked="" type="checkbox"/>		HUB CAPS (S)
RED		<input checked="" type="checkbox"/>	SEAT (REAR)	<input checked="" type="checkbox"/>		ALT/GENERATOR	<input checked="" type="checkbox"/>		SPECIAL WHEELS
DALIT		<input checked="" type="checkbox"/>	RADIO	<input checked="" type="checkbox"/>		BATTERY	<input checked="" type="checkbox"/>		DRIVING LIGHTS
TYRA		<input checked="" type="checkbox"/>	TAPE DECK	<input checked="" type="checkbox"/>		DIFFERENTIAL	<input checked="" type="checkbox"/>		CAMPER *
PARTS STRIP		<input checked="" type="checkbox"/>	TAPES (# 4)	<input checked="" type="checkbox"/>		TRANSMISSION	<input checked="" type="checkbox"/>		CARGO *
Y METAL STRIP		<input checked="" type="checkbox"/>	OTHER RADIO	<input checked="" type="checkbox"/>		AUTOMATIC ()	<input checked="" type="checkbox"/>		VESSEL AS LOAD *
SWITCH		<input checked="" type="checkbox"/>	IGNITION KEY	<input checked="" type="checkbox"/>		MANUAL ()	<input checked="" type="checkbox"/>		FIREARM(S) *

PROPERTY, TOOLS, VEHICLE DAMAGE, ARRESTS (FULL NAMES, CHARGES, AGE, WHERE DETAINED)
 HIS VEHICLE WAS INVOLVED IN A ROBBERY AT 1000 EUCLID. IT THEN WAS INVOLVED IN A TRAFFIC ACCIDENT AT 4700 AUBURN DR. THE TWO SUSPECTS LEFT THE SCENE EASTBOUND AUBURN DR. I RECOVERED FIVE SMALL BAGGIES CONTAINING MARIJUANA ON THE PASSENGER FLOOR BOARD THE MARIJUANA AT EASTERN AVENUE # - THE CAR WAS IMPOUNDED AT CENTRAL PER ROBBERY -

ORDERING OFFICER G. FILLEY	STORAGE/REPORTING OFFICER D. Kewacker	I.D.# 4294	DIVISION E-2	CONTINUED ON SEPARATE SHEET <input type="checkbox"/>	
GARAGE PRINCIPAL OR AGENT STORING VEH. (SIGNATURE) Danny E. Shaw		DATE AND TIME 6/30/89 2200			

VALUATION, RELEASE, DISPOSITION			
OVERLY TELETYPE (DATE NUMBER)	REQUIRED NOTICES SENT TO REGISTERED & LEGAL OWNERS (SEC. 23132 VC) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF NO IS CHECKED, INDICATE REASON HOLD FOR ROBBERY	
RAISED VALUE 1000	DATE AND TIME OF APPRAISAL 6-30-89 2315	APPRAISING OFFICER'S SIGNATURE [Signature]	I.D. NUMBER 4294
STORAGE AUTHORITY/CONCERN		DATE	
NATURE OF PERSON AUTHORIZING RELEASE		CERTIFICATION: I, the undersigned, do hereby certify that I am legally authorized and entitled to take possession of above described vehicle.	
SIGNATURE OF PERSON TAKING POSSESSION			

VIN: N69L7C168226

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Exhibits

- H Limited Instruction Regarding Petitioner's Intoxicated State, CT 80
- H1 Jury Instruction CALJIC 9.58
- H2 RT 60-70, Champion Drives to His House. Disobeys Petitioner. Petitioner Calls Out to Bystanders
- H3 RT 148-151, Champion Forms Plan To Drive Home. Prosecutor Objects To Petitioner's Intoxication and Trial Court Sustains
- H4 RT 166-177, Marquez Testifies. Prosecutor Objects To Petitioner's Intoxication and Trial Court Sustains
- H5 RT 279-287, Petitioner Denies First Element of Kidnapping
- H6 RT 384-388, Petitioner Waives Jury Trial on Prior Convictions. (Remarks by Trial Court Regarding O.J. Simpson Murder Trial)
- H7 RT 429-430, Trial Court Reads O.J. Simpson Murder Verdict of "Not Guilty" Is Read To Petitioner's Jury
- H8 CT 53, Instant Case SCD112436, Probation Report (Excerpt)
"Sentencing Data" Stating No Need To Cite Mitigants or Aggravants.
Note: This Probation Report Was Used At Three Strikes Sentence
12-29-95, And Also At Re-Sentence-6-12-97.

0097

LIMITING INSTRUCTION

The Court has admitted evidence of the defendant's state of intoxication for the following limited purposes:

1. To assist you in evaluating the credibility of Russell Champion;
2. To assist you in evaluating the credibility of the defendant; and
3. To assist you in determining whether the defendant's appearance and actions instilled fear in the mind of Russell Champion.

By admitting evidence of the defendant's intoxication the Court is not expressing an opinion as to how much weight, if any, you should give to this evidence.

Do not consider such evidence for any purpose except the limited purposes for which it was admitted.

Exhibit 5-1



CALJIC 9.58

KIDNAPING--BELIEF AS TO CONSENT

0080

It is a defense to the charge of kidnapping that a defendant lacked general criminal intent. There is no general criminal intent if a defendant entertained a reasonable and good faith belief that the person alleged to have been kidnapped voluntarily consented to accompany the defendant and to the movement involved in the purported kidnapping. If from all the evidence you have a reasonable doubt that the defendant harbored general criminal intent at or during the time of the movement, you must find him not guilty of kidnapping.

*Defense
Request*

Exhibit K

referred

671



1 A. I stopped and he again told me to go
2 forward.

3 Q. How was he sitting in the car still at this
4 point?

5 A. Still crouching down on the seat, yes.

6 Q. And were fists still raised?

7 A. Right.

8 Q. Did you do as you were told that time, to
9 drive forward?

10 A. Yes.

11 Q. Where was the next point that you changed
12 direction?

13 A. At -- where Scimitar hits -- well, I thought
14 it was 65th, but it's Klauber, where 65th goes on up.

15 Q. Go ahead and step down and point it out is
16 fine.

17 A. Okay. 65th goes up there and where Scimitar
18 hits Klauber.

19 Q. And you're indicating the point on the map
20 here where Klauber and Scimitar meet?

21 A. Yes, sir.

22 Q. Is that right?

23 What happened at that point?

24 A. He told me again to go straight, but I
25 turned left instead.

26 Q. What happened when you turned left instead
27 of following his command to go straight?

28 A. He said, "I told you to go straight," but he

Ex

1 wasn't -- he wasn't too demanding about it or too upset
2 that I had turned.

3 Q. So now you're driving down Scimitar; is that
4 right?

5 A. Yes, sir.

6 Q. Did you see any pedestrian or people on
7 Scimitar?

8 A. Yes. We came to a pickup truck parked on
9 the passenger side with a man changing his shirt,
10 standing there, and he asked me to stop.

11 Q. Do you remember what the words that he said
12 to you?

13 A. Just something about, "Stop, stop right
14 here."

15 Q. Was it a question like, will you stop, or
16 was it a command?

17 A. No, it was a command.

18 Q. So he told you to stop next to the person
19 changing the shirt?

20 A. Yes.

21 Q. And again, how was the defendant in your car
22 at this point? Is he still in the same position or is
23 he changed?

24 A. No, he's turned and looking out the
25 passenger side.

26 Q. What's he doing with his fist?

27 A. Seems like they're on the front of the dash.

28 Q. And when did he change his position from

Ex.

1 sort of facing you sideways now to facing front?

2 A. Right as we approached this person on the
3 street.

4 Q. But the entire time prior to approaching
5 this person, he maintained the position that you
6 described of him with his fists up close to you?

7 A. Yes, uh-huh.

8 Q. Is that a yes?

9 A. Yes, I'm sorry.

10 Q. That's okay.

11 What happened when you were next to this
12 person who was changing his shirt?

13 A. Apparently he didn't recognize the guy like
14 he thought he was going to or the guy didn't respond to
15 whatever he had said to him, so we proceeded forward
16 again at his command.

17 Q. How long did you stop before you were
18 commanded to drive forward again?

19 A. We may not have actually ever come to a
20 stop. If so, it was only like a second.

21 Q. What was this person doing while you were
22 slowing down by him, the person outside the car?

23 A. I guess he was continually changing his
24 shirt, because I couldn't really see him through the --
25 and I wasn't really worried about what he was doing
26 either.

27 Q. And what was the defendant doing inside the
28 car when you were near this person outside the truck --

Ex.

1 outside the car?

2 A. Like I said, he was looking at him to see if
3 he recognized him or something.

4 Q. And then after a short while the defendant
5 commanded you to drive forward again?

6 A. Right.

7 Q. Did you do so?

8 A. Yeah.

9 Q. How far did you get down Scimitar now before
10 you noticed anyone else or were given another command?

11 A. We went four or five, six, seven houses
12 further down Scimitar, where there was a man in his
13 yard, and again he thought he recognized him and he
14 told me to stop in front of that house.

15 Q. Did you do as you were commanded to stop in
16 front of this second person?

17 A. No, I didn't stop until 20 feet further
18 past.

19 Q. What happened when you disobeyed the command
20 to stop by that second pedestrian?

21 A. He punched me in the face.

22 Q. Did he say anything to you before or after
23 he punched you in the face?

24 A. "I told you to stop," something like that.

25 Q. What was his tone of voice like?

26 A. It's getting higher and more agitated.

27 Q. What was his physical demeanor like? What
28 was he doing with his body when you disobeyed his

Ex. 4

1 A. No.

2 Q. That wasn't possible?

3 A. No.

4 Q. Was there another option in your mind that
5 you could have stopped the car and said get out of my
6 car?

7 A. No.

8 Q. Okay. So the only two options that were
9 posed in your mind were to follow his instructions or
10 not to follow his instructions?

11 A. Uh-huh, yes.

12 Q. And you chose on many occasions not to
13 follow his instructions?

14 A. On a few, yes.

15 Q. Okay. But you had this master plan in your
16 mind to outsmart Mr. Salceda; is that a fair statement?

17 A. No.

18 Q. You turned onto Scimitar to go in the
19 direction of your house. Had you not anything in your
20 mind that what you were about to do and how you were
21 going to get this person out of your car?

22 A. Yeah, I had option A or B, but I didn't have
23 a master plan on what was going to happen.

24 Q. Okay. I don't mean, for instance, a master
25 plan, but you had a plan?

26 A. I chose to turn left, yeah.

27 Q. Okay. Because you had an advantage over
28 Mr. Salceda on the 23rd, didn't you?

Ex.

1 MR. GROCH: Objection; vague as to advantage.

2 THE COURT: Sustained.

3 BY MR. MANGARIN:

4 Q. Did you feel you had some type of
5 advantage? Do you know what I mean by advantage?

6 A. Not particularly.

7 Q. You were in a better condition than he was,
8 weren't you?

9 MR. GROCH: Objection; vague.

10 THE COURT: Sustained.

11 BY MR. MANGARIN:

12 Q. When Mr. Salceda was facing toward the front
13 of the seat, he was leaning forward with his head on
14 the dashboard in that direction at one point, was he
15 not?

16 A. Head on the dashboard, no.

17 Q. You testified at the preliminary hearing
18 that at some point prior --

19 A. His hands on the dashboard.

20 Q. And he was looking forward?

21 A. Yeah.

22 Q. And he was murmuring something to you?

23 A. No.

24 Q. He wasn't saying anything?

25 A. He wasn't murmuring, no.

26 Q. Let's try and backtrack a little bit.

27 When he -- when you saw him outside the
28 car, before he got into the car, wasn't he saying

EX

254

1 things that were unintelligible to you?

2 MR. GROCH: We're way outside the scope.

3 THE COURT: Sustained, outside the scope.

4 BY MR. MANGARIN:

5 Q. In part, when you described Mr. Salceda as
6 being out of control, in addition to him losing his
7 emotions and becoming irate, did it not appear to you
8 that he was out of control because of a physical
9 condition?

10 MR. GROCH: Objection; lack of foundation.

11 THE WITNESS: No.

12 THE COURT: The answer is no? Is that your
13 answer?

14 THE WITNESS: Yeah.

15 THE COURT: The answer will stand.

16 BY MR. MANGARIN:

17 Q. And it did not appear to you -- well, you've
18 testified as to what your observations were with
19 respect to intoxication and what have you.

20 MR. GROCH: Objection; relevance, outside the
21 scope.

22 THE COURT: Outside the scope.

23 BY MR. MANGARIN:

24 Q. Have you had experience before with people
25 that you've described as out of control?

26 A. I've been a bartender for ten years. Yeah,
27 I have seen people out of control.

28 Q. So you have the ability to make a

Ex.

1 determination when you feel someone is out of control
2 because of past experience and your own personal
3 experience in life, you can draw on your personal
4 experience and say someone is out of control?

5 A. Not in this situation, no.

6 Q. You can't do it in this situation, but you
7 can do it in others, sir?

8 A. Right.

9 Q. So your testimony, then, is you're not able
10 to say whether Mr. Salceda was out of control?

11 A. I can say I thought he was out of control,
12 yes.

13 Q. Okay. You thought he was out of control,
14 but you're not basing it on any personal past
15 experience in your life to base that on?

16 A. No.

17 Q. All right. And in your experience as a
18 bartender, is this what you mean by seeing people out
19 of control?

20 A. I have seen people drunk before, yes.

21 Q. So you feel you have the ability to make
22 that determination?

23 A. No.

24 MR. GROCH: Objection; vague.

25 THE COURT: Sustained.

26 MR. MANGARIN: I have no further questions, your
27 Honor.

28 THE COURT: Any further questions?

Ex.



1 about 18 feet.

2 MR. GROCH: Thank you.

3 BY MR. GROCH:

4 Q. And you indicated that there is bushes
5 blocking your view of the street as well; is that
6 right?

7 A. Yes.

8 MR. GROCH: No further questions. Thank you.

9 THE COURT: Cross-examination, Mr. Mangarin?

10 CROSS-EXAMINATION

11 BY MR. MANGARIN:

12 Q. Good morning, Mr. Marquez.

13 Mr. Marquez, you referred to my client as
14 Leo. You knew my client before this incident, didn't
15 you?

16 A. Yeah. He went to school with my kids.

17 Q. You've known him for about nine years?

18 A. Not very well, though.

19 Q. Okay. You knew him because he knew your
20 kids?

21 A. Yeah.

22 Q. You knew of him. That's Dedire and Dominic?

23 A. Yes.

24 Q. Did they go to school together?

25 A. If they went to school together, that might
26 have been in elementary school. High school my kids
27 went out to Point Loma. And they went to another
28 school off of 70th and El Cajon Boulevard, I can't

Ex.

1 remember the name of it, but -- but they grew up in the
2 neighborhood, so they knew each other like that, you
3 know.

4 Q. Grew up in the same neighborhood?

5 A. Uh-huh.

6 Q. Or the kids grew up in the same
7 neighborhood.

8 You have had some face-to-face contact with
9 him -- had some face-to-face contact with him, some
10 conversations with him, however brief, before the 23rd
11 of April this year?

12 A. Conversations with him, no.

13 Q. You knew his name was Leo?

14 A. Yeah.

15 Q. Okay. And he knew your name as Mr. Marquez?

16 MR. GROCH: Objection; calls for speculation.

17 THE WITNESS: Yes.

18 MR. GROCH: Your Honor, move to strike.

19 THE COURT: Rephrase the question.

20 BY MR. MANGARIN:

21 Q. He had referred to you by your name prior to
22 the 23rd, either Jesse or Mr. Marquez, if you recall?

23 A. Yeah. I seen him at a party in a park one
24 time that my daughter was having at Mt. Vernon Park,
25 and we shook hands then. It was just very brief. He
26 came up, hi, hi, you know.

27 Q. Prior to the 23rd had he always been cordial
28 and civil to you?

Ex.

1 A. I have never made any contact with him,
2 never, you know, we never had anything to talk -- you
3 know, I would see him and that would be about it.

4 Q. Okay. The one incident you talked about, he
5 came up to you, shook your hand, greeted you?

6 A. Yeah.

7 Q. He didn't get tough with you or challenge
8 you on that occasion?

9 A. No.

10 Q. In fact, prior to the 23rd you never had
11 choice words or bad words with each other, never had an
12 argument with him?

13 A. I don't believe so, no.

14 Q. Nothing in your mind -- nothing comes to
15 your mind, anything that happened between you and Leo
16 prior to the 23rd which would have caused him to be
17 angry with you that day?

18 A. No.

19 Q. Okay. And yet on this day in question, you
20 sensed danger; is that right?

21 A. Yes, I did.

22 Q. Okay. Because you saw Leo and you felt he
23 looked a little bizarre; is that a fair statement?

24 A. He didn't look -- he had, you know, kind of
25 glassy eyes. He looked -- he didn't look normal.

26 Q. And what he was saying to you, did it appear
27 strange? Content of what he was saying to you, did
28 that appear strange to you?

Ex.

1 A. It was mainly, you know, the talk that they
2 use at that age, like what's up, you know, what's up
3 with you, you know, stuff like that.

4 Q. Young people use?

5 A. Yeah.

6 Q. Did he ask you for a ride you say?

7 A. This was after I got in my yard.

8 Q. Okay. Well, did that strike you as somewhat
9 strange when he asked you for a ride?

10 A. Well, after what took place, I wasn't going
11 to give him a ride.

12 Q. So at some point you raised your broom, you
13 get behind the gate; is that right?

14 A. Yes.

15 Q. You have words with him; is that right?

16 A. Yes.

17 Q. You tell him to get out of here, don't you?

18 A. Uh-huh. "Just forget it, get out of here,"
19 something like that.

20 Q. And then after all this he asked you for a
21 ride?

22 A. Yeah.

23 Q. Okay. Did you form in your mind at that
24 point that Mr. Salceda was under the influence of
25 something?

26 MR. GROCH: Objection; relevance, lack of
27 foundation.

28 THE COURT: Overruled.

Ex.

1 Did you form an opinion that he was under
2 the influence of anything?

3 THE WITNESS: Yes, I did.

4 BY MR. MANGARIN:

5 Q. In fact, you had a chance to observe the way
6 he was walking, didn't you? Is that right?

7 A. Yes.

8 Q. He was staggering, wasn't he?

9 MR. GROCH: Objection; relevance, your Honor.
10 May we approach?

11 THE COURT: Yes, you can approach side-bar.

12 (The following proceedings were had at
13 side-bar, outside the presence of the jury:)

14 MR. GROCH: There is absolutely no relevance to
15 this testimony. He's backdooring in his voluntary
16 intoxication defense, which as a matter of law is
17 inapplicable to these charges.

18 THE COURT: You asked the question what the
19 defendant looked like in your direct examination, and
20 you brought out the fact that he had a distant look,
21 also an angered look. So you opened the door
22 somewhat.

23 Now, Mr. Mangarin, where do you intend to
24 go?

25 MR. MANGARIN: Your Honor, I also add the fact
26 that the first witness, Mr. Champion, testified as to
27 his walk, his gait, his appearance, his eyes, his
28 smell, and certainly this would go -- have some

Ex.

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1 probative value as to impeachment as to Mr. North and
2 his credibility what he observed on the day in
3 question.

4 He also indicated he had special experience
5 and the ability to make that determination, and he's
6 denied any indication of any of these factors. And I
7 think Mr. Marquez, as an offer of proof, he spoke with
8 the investigator and he described the demeanor, which
9 is very much in contrast with the demeanor that
10 Mr. Champion indicated just minutes preceding his
11 contact with Mr. Marquez.

12 THE COURT: The question is whether you are going
13 to impeach him on such a collateral matter. So where
14 do you intend to go? What are you going to ask him?

15 MR. MANGARIN: I'm sorry. About the way he was
16 walking, did he not describe the look in his eyes or
17 what he described, elaborate on that, and if he goes
18 sideways on me, I'm going to ask him about the
19 statement that he gave my investigator, which I
20 provided a copy to Mr. Groch weeks ago.

21 THE COURT: So you are going to ask him --

22 MR. MANGARIN: About his appearance.

23 THE COURT: You opened the door about his
24 appearance.

25 MR. MANGARIN: And his walk, your Honor.

26 MR. GROCH: I asked demeanor in the sense of
27 aggressive stance and that's the answer I got. I
28 didn't get into glassy eyes, odor of alcohol, unsteady

1 gait, content of conversation. All of that, the door
2 is not opened by how did he appear as far as his
3 demeanor.

4 THE COURT: You can go into the look and his
5 appearance.

6 MR. MANGARIN: Your Honor, may I go into the
7 reasons why he sensed danger, because that certainly
8 had been opened?

9 THE COURT: That's been opened. Okay. You can
10 go into those areas.

11 (The following proceedings were had in open
12 court in the presence of the jury:)

13 THE COURT: Go ahead, Mr. Mangarin.

14 BY MR. MANGARIN:

15 Q. Mr. Marquez, you had seen Mr. Salceda, Leo,
16 in the past, and talked about expression on his face.
17 You sensed a certain expression on his face. You
18 described that on questions by counsel. Do you
19 remember that?

20 A. He looked angered.

21 Q. Other than angry, is your -- can you further
22 elaborate on that? What do you mean by angry?

23 A. Well, it made me uncomfortable. I didn't
24 know, you know, if he was going to take a swing at me
25 or not.

26 Q. Did this -- did you observe this and did
27 this come to your state of mind upon his initial
28 contact of you?

Ex.

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1 A. Yes.

2 Q. Do you understand that?

3 A. Yeah. When he first showed up on me?

4 Q. Yes.

5 A. Yes.

6 Q. He didn't have a conversation with you, a
7 friendly conversation and then it became angry?

8 A. No.

9 Q. He appeared to have this expression on his
10 face when he first came down?

11 A. He had this distant look and it wasn't a
12 comfortable look. It made me, you know, take a
13 defensive stand.

14 Q. He didn't ask you about your kids or
15 anything of that nature?

16 A. No.

17 Q. You had the opportunity to watch him walk?

18 A. Yes.

19 Q. How was he walking?

20 MR. GROCH: Objection; relevance.

21 THE COURT: Overruled. You can describe his
22 walk.

23 THE WITNESS: He had coordination.

24 BY MR. MANGARIN:

25 Q. When you say he had coordination, do you
26 know what the term staggering means?

27 A. Yes.

28 Q. Would you say that's at the opposite end?

Ex.

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1 When you say coordination, what do you mean by that in
2 relation to the term staggering?

3 A. Well, he wasn't -- he wasn't staggering, you
4 know, falling down or anything. He was pretty -- you
5 know, he was sure footed.

6 Q. Sir, do you remember speaking with an
7 investigator back in June of this year from the defense
8 attorney's office?

9 A. I think I've talked to about two or three.
10 I don't remember who they are, though.

11 MR. MANGARIN: Your Honor, may I approach?

12 THE COURT: Yes.

13 BY MR. MANGARIN:

14 Q. Mr. Marquez, I am going to show you a
15 document, and I'll state for the record you've seen
16 this document prior to coming to court today, have you
17 not?

18 A. Yeah.

19 Q. Okay. I showed this to you just a few
20 minutes ago?

21 A. Uh-huh.

22 Q. And I pointed to the very last paragraph.

23 THE COURT: What about it? Do you want him to
24 read it to himself?

25 MR. MANGARIN: Just read it to yourself.

26 THE COURT: Read it to yourself, don't say
27 anything.

28 THE WITNESS: Yeah.

1 BY MR. MANGARIN:

2 Q. Have you read it to yourself?

3 I am going to ask you to read the line
4 right above the last paragraph as well to yourself.

5 A. Yeah, right. This right here?

6 Q. Yes. Having read that, first, do you recall
7 speaking to an investigator as to Mr. -- as to Leo's
8 walk, whether he was staggering or not? Do you
9 remember that area of conversation coming up?

10 A. No. It's been a while.

11 Q. Okay. Well, is it fair to say that when you
12 say it's been a while, we're coming into October now,
13 were your recollection of the events and what you saw a
14 little clearer as we get closer to April 23rd? Do you
15 think -- are you generally a person that can recall
16 things that happened closer to the event as opposed to
17 a passage of time?

18 A. Yeah. At the time it was, you know, when
19 the investigators came over, most of this was pretty
20 fresh on my mind and I was able to give them, you know,
21 most of the answers that they wanted at that time
22 pretty clearly.

23 Q. Okay. And you had no reason at that point
24 in time, or at any point in time, to give any
25 information to an investigator which would not be true?

26 A. Of course not.

27 Q. Okay. Is it a fair statement, then, that
28 the statements that you gave the investigator in June

1 as to particularly staggering and gait and walk, was an
2 accurate recollection of the events of the 23rd just
3 two months earlier?

4 A. Yeah, what was -- what I told them was the
5 truth. I have no reason to --

6 Q. Having looked at this document, is your
7 memory refreshed now as to whether Leo was staggering
8 or not that day?

9 A. No, I can't remember that. You know, that
10 right back even though I read that and everything, I
11 can't remember how he was walking at that particular
12 time.

13 Q. Sir, is it true that you told the
14 investigator that he was staggering?

15 MR. GROCH: Objection; hearsay, move to strike.

16 THE COURT: Sustained. Granted. Question is
17 stricken.

18 BY MR. MANGARIN:

19 Q. Did you have a discussion with the
20 investigator with respect to, or did you use a term --
21 do you recall using a term to the investigator as to
22 the demeanor of Mr. Salceda?

23 A. I don't understand.

24 MR. GROCH: Your Honor, I am going to object
25 under 352. The probative value is clearly outweighed.

26 THE COURT: We're getting far afield at this
27 point. He said he didn't recall the conversation with
28 the investigator.

1 MR. MANGARIN: With respect to his walk, your
2 Honor.

3 BY MR. MANGARIN:

4 Q. With respect to -- well, with respect to his
5 condition, did you or did you not say that Mr. Salceda
6 was, quote, fucking out of it?

7 MR. GROCH: Objection.

8 THE COURT: Sustained.

9 THE WITNESS: If I --

10 MR. GROCH: There is no question.

11 THE COURT: There is no question pending.

12 BY MR. MANGARIN:

13 Q. How long did the contact with Leo take
14 place, your best recollection, the point that he came
15 up to you and the point that he walked off?

16 A. I can't remember. It seemed forever. I
17 just wanted him out of there. I didn't feel safe. I'd
18 say ten minutes, and I don't know if that's the correct
19 time, but give or take five.

20 Q. Okay. You weren't watching the clock at
21 that time, obviously?

22 A. No.

23 Q. But you had the ability to have this
24 conversation that you described with him in that time
25 frame?

26 A. Yeah.

27 Q. And in fact, your wife also came out at one
28 point?



1 because it unduly highlights certain areas of
2 testimony. I think it's going to confuse the jury,
3 that it can't be permitted for any, so it should be
4 given with the rest of the instructions.

5 THE COURT: All right. Your position is noted.
6 I am prepared to give it now if you're requesting it.

7 MR. GROCH: I'm requesting it.

8 MR. MANGARIN: Right now, your Honor? Right now,
9 before we finish with the witness?

10 THE COURT: Well, I want to finish with this
11 witness.

12 MR. MANGARIN: Okay.

13 THE COURT: Get me the other instruction.

14 MR. MANGARIN: Your Honor, so I can be clear, I
15 will be permitted to call Miss Murgo? She is
16 apparently here.

17 THE COURT: Yes.

18 (The following proceedings were had in open
19 court in the presence of the jury:)

20 CROSS-EXAMINATION

21 BY MR. GROCH:

22 Q. Mr. Salceda, you are a rather mean drunk,
23 aren't you?

24 A. No.

25 Q. Isn't it true that when you get drunk, you
26 get aggressive?

27 A. I don't notice it.

28 Q. You don't know?

1 A. I said I don't notice it, sir.

2 Q. Well, have you been told about situations
3 where you've been drunk and then find out that you did
4 some pretty aggressive things?

5 A. Yes.

6 Q. So you would agree with me that you're an
7 aggressive drunk?

8 A. Yes.

9 Q. And you can't deny that you punched Russell
10 Champion in the face, can you?

11 A. No, I can't, sir.

12 Q. And you can't deny that you commanded that
13 he drive you 1.2 miles and follow your directions, can
14 you?

15 A. Yes, I can, because I don't know if I did
16 that.

17 Q. You can't deny that you did that? You can't
18 sit on that stand and say I didn't do that,
19 Mr. Prosecutor?

20 A. I also can't sit here and say I did say it.

21 Q. My question to you is can you deny the fact
22 that you drove 1.2 miles with a person with your fist
23 pointed at his face and struck him three times?

24 A. Can I deny that?

25 Q. Yes.

26 A. Yes, I can.

27 Q. How can you deny that?

28 A. Because I don't remember doing something

1 like that.,

2 Q. You would agree with me that there is a
3 difference between not remembering whether you did
4 something and denying whether you did something,
5 wouldn't you?

6 A. No. When you have a blackout --

7 Q. When you have a blackout, you were doing
8 what you were doing, you just may not remember it
9 later; is that what you're saying?

10 MR. MANGARIN: Objection; this is argumentative.

11 THE COURT: Sustained. It's argumentative.

12 BY MR. GROCH:

13 Q. Well, isn't it true when you have a
14 blackout, if in fact you're having one, you simply
15 don't remember later what you did; at the time you know
16 exactly what's going on?

17 A. I drank 14 beers is what I can remember.

18 Q. And then you all of a sudden don't remember
19 anything after shaking this bartender's hand?

20 A. No, it wasn't all of a sudden just like
21 that. It was bits and pieces.

22 Q. Well, your memory seemed pretty good for
23 awhile there. You said you shook the owner's hand, he
24 says I've known the defendant since he was a kid, you
25 remember that; right?

26 A. Yes, sir, I do.

27 Q. And you remember the fuzzy hair of the
28 bartender; right?

1 A. Yes, sir.

2 Q. And you remember where the door was in the
3 bar and that there was a man next to that; right?

4 A. I remember the bar because I have been in
5 there several times.

6 Q. And you remember the name of the bartender
7 and she would touch people's hands and say okay, I'll
8 give you another. You remember all that; right?

9 A. Because I was in there two hours.

10 Q. And then all of a sudden, it ends?

11 A. No, it wasn't all of a sudden. It was just
12 bits and pieces that led up to it where I can't
13 remember. I blacked out.

14 Q. And none of those bits and pieces that you
15 remember took place while you were forcing an innocent
16 person to drive him where you told him to go? You
17 don't remember any of those bits and pieces, do you?

18 A. No, I don't, sir.

19 Q. Not a single one?

20 A. No, I don't, sir.

21 Q. Yet you were sober enough that you could
22 jump into that victim's car, weren't you?

23 A. I don't know if I did that, sir.

24 Q. Well, did you wake up the next day with any
25 cuts and scrapes from falling on the ground?

26 A. No, sir.

27 Q. Okay. Did you have any bruises?

28 A. Wait a minute, I did, I had some scratches

1 on my knees.

2 Q. Okay. Did you have any bruises, broken
3 bones, bleeding?

4 A. No.

5 Q. Nothing like that?

6 A. Nothing like that at all, sir.

7 Q. You said your first memory is being in jail
8 with a lady asking you questions and punching a piece
9 of paper; right?

10 A. No, I didn't. I said I was slouched in the
11 back of the police car like this.

12 Q. Okay. So let's be clear. Your first memory
13 is you in a police car; right?

14 A. Yes.

15 Q. How many police officers were in that car?

16 A. I am not even sure that there was any in
17 there.

18 Q. Do you remember the officer sitting next to
19 me, Officer Pechin?

20 A. No, sir. I asked my lawyer yesterday, who
21 was he, a D.A.

22 Q. Do you remember what happened after you woke
23 up in the back of this police car?

24 A. No, I don't, I just remember being urinated.

25 Q. And it's your testimony that you urinated on
26 yourself prior to going into the jail; right?

27 A. Either I had urinated on myself -- whether I
28 was asleep or whether I was not conscious, but I don't

1 remember urinating on myself prior to going into the
2 jail.

3 Q. Well, let's see if we get this right. You
4 said you're in the car and you noticed the urine on
5 your pants?

6 A. Yes, sir.

7 Q. And then after you're in the car you're put
8 in jail; right?

9 A. No.

10 Q. Well, what did you do after you're in the
11 police car?

12 A. Sat in the police car for I think -- I think
13 to my guess, several hours.

14 Q. Okay. So you're sitting in this police car
15 for several hours. Then what?

16 A. Well, I can't really place. I remember bits
17 and pieces. It's 14th and Broadway they have a police
18 station, and they go down in the bottom like that, and
19 that's when I came around. I looked around, and where
20 am I at.

21 Q. And you recognized the police station?

22 A. Because of the police cars there.

23 Q. You've been there before?

24 A. One time in 1989.

25 Q. Only once?

26 A. No.

27 Q. You remember recognizing the police station;
28 right?

1 A. Yes.

2 Q. Okay. So you come to, you realize I'm in a
3 police car in police headquarters; right?

4 A. No.

5 Q. Well, you looked around, you saw all the
6 police cars, you had been to the police station
7 before. Did you or did you not recognize I'm in a
8 police car at police headquarters?

9 A. Instantly, no.

10 Q. Within a few minutes? You said you had a
11 couple hours to think about it. Did you eventually
12 realize where you were?

13 A. Yes, sir.

14 Q. How long did that take?

15 A. I can't be accurate.

16 Q. Give me a guess.

17 A. Maybe four or five minutes.

18 Q. Okay. So four or five minutes after you
19 come to you realize, one, you have urinated on
20 yourself; and two, you are in a police car at
21 headquarters; correct?

22 A. Yes.

23 Q. What happens after that?

24 A. I can't really remember.

25 Q. Then we get into another blackout?

26 A. No, sir, it's just bits and pieces that I
27 remember up until 12 o'clock -- 12:10 rather.

28 Q. But you do have a clear memory of having

1 urinated on yourself prior to being in jail; right?

2 A. Yes, sir.

3 Q. So by the time you're in jail, you already
4 would have peed on yourself; right?

5 A. Where I peed on myself, I know that it was
6 when I was handcuffed in the back of the cop car -- in
7 the police car. I was urinated -- I was peed on
8 myself.

9 I don't know what I am -- what you're
10 trying to tell me about the jail.

11 Q. I am trying to establish you had peed on
12 yourself in the police car prior to getting put in
13 jail. Would you agree with me on that point?

14 A. Yes. I would also say it's several hours --
15 at least several hours.

16 Q. Fine. But you don't remember getting taken
17 from the police car and put into jail; right?

18 A. No, sir, I don't.

19 Q. But you do remember this woman punching
20 12:10, good memory, on your sheet; right?

21 A. It's on the paper. It says 12:10.

22 Q. You said, "I remember 12:10."

23 A. It's on the paper, that's why I remember.

24 Q. You remember the punching but not
25 necessarily the time?

26 A. Yes.

27 Q. And what do you remember after that?

28 A. Matter of fact, the next day I had either

1 went to sleep, but the next day inmates in there told
2 me that I was trying to fight with people, and they
3 said, "Hey, you all right now?" And I didn't remember
4 what they were telling me.

5 Q. So more proof that you're an aggressive,
6 fighting drunk?

7 MR. MANGARIN: Objection; argumentative.

8 THE WITNESS: Sir, you're in jail.

9 THE COURT: No question pending. Objection
10 sustained.

11 BY MR. GROCH:

12 Q. You do things when you're drunk that you
13 don't remember later that are pretty aggressive,
14 wouldn't you agree with me?

15 A. No, sir.

16 Q. You just told me now that you got into a
17 fight that you don't even remember.

18 A. I don't remember getting into a fight.
19 People said I was arguing, but in jail it's like that.
20 Move out of the way, and if you don't move, it's either
21 fight or -- it's like that in jail.

22 Q. So people told you you were being
23 argumentative, then, the next day?

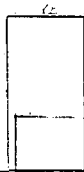
24 A. Yes, sir.

25 Q. And you don't remember that?

26 A. That I was being argumentative?

27 Q. Right.

28 A. No.



1 to the Court before instructions.

2 THE COURT: Have 5.30 available for me this
3 afternoon when I instruct.

4 Other issues that we have left is whether
5 or not anyone wanted 2.21.2. Does anyone want that
6 instruction?

7 MR. GROCH: No, your Honor.

8 MR. MANGARIN: No, your Honor.

9 THE COURT: I will not give that instruction.
10 And I think that really covers the issues that we had
11 left to be resolved.

12 Does anyone else recall any other issues
13 related to the instructions?

14 MR. MANGARIN: No, your Honor.

15 THE COURT: All right. This morning the verdict
16 in the O. J. Simpson case is scheduled to come out at
17 ten o'clock. There is no doubt in my mind that these
18 jurors have that in the back of their mind, if not the
19 front of their mind. So it would be my intent to tell
20 them when we hear something, we will let them know, so
21 that they will realize it's being monitored. That's
22 not scheduled until ten o'clock.

23 It would be my intent to finish our
24 arguments this morning, give counsel a chance just to
25 clean up the instructions in their written form. I
26 would instruct this afternoon.

27 Is that agreeable? Anyone have a problem
28 with that?

1 MR. MANGARIN: Couple things, your Honor. I
2 would only request that the telling of the jury about
3 the O. J. result would come at an appropriate time
4 during the break.

5 THE COURT: I will not interrupt anyone right in
6 the middle of their arguments to announce, but when we
7 take a recess or at the appropriate time, I will tell
8 them.

9 MR. MANGARIN: Thank you.

10 I would like to make a record, your Honor,
11 with respect to the LIOs, and just so that the record
12 is clear, we had, and we would stand by our previous
13 objection, as to whether the instructions with respect
14 to false imprisonment by violence and false
15 imprisonment, simple false imprisonment can be given as
16 LIO instructions over defense objection. We'd stand by
17 that objection for the record, your Honor.

18 With respect to the temporary use or taking
19 of a vehicle for temporary use, we think that given the
20 facts of this case, there is sufficient facts to
21 warrant an instruction with respect to Mr. Champion's
22 vehicle. I would like to make the record that we are
23 asking for that as an LIO, given the facts of this
24 case.

25 The issue here, I think, is, as to that
26 instruction, what was Mr. Salceda doing in that car and
27 why was he asking for a ride up the hill. And I think
28 that in and of itself is -- would warrant and justify a

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1 jury finding him guilty of temporary as opposed to
2 permanent depriving of Mr. Champion's vehicle. We
3 would ask for that instruction as well.

4 There is a last paragraph in 9.00 that
5 references self-defense, and His Honor has indicated
6 you would give that as part of a 9.00.

7 THE COURT: Yes.

8 MR. MANGARIN: Thank you.

9 THE COURT: I have one question for you,
10 Mr. Mangarin. I still have the priors. What's going
11 to happen on the priors?

12 MR. MANGARIN: I have spoken with Mr. Salceda
13 about that. My understanding is we will, at the
14 Court's convenience, and if necessary, we'll proceed
15 forward with that without a jury.

16 THE COURT: All right. Well, I will take a
17 waiver at a later -- let's do it now.

18 MR. MANGARIN: Your Honor, may I have one
19 second?

20 THE COURT: All right.

21 (Counsel and defendant confer.)

22 MR. MANGARIN: Okay, your Honor.

23 THE COURT: Have you had a chance to discuss the
24 jury waiver with your client, Mr. Mangarin?

25 MR. MANGARIN: I have.

26 THE COURT: Mr. Salceda, do you understand with
27 respect to the trial on the priors, in the event you
28 were found guilty on this matter, the jury would then

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1 be reconvened and you would have a right to have the
2 jury determine whether or not the prior offenses were
3 committed and whether or not you were the person
4 committing the offenses? Do you understand that
5 right?

6 THE DEFENDANT: Yes.

7 THE COURT: Do you give up and waive your right
8 to a jury trial on the priors?

9 THE DEFENDANT: Yes.

10 THE COURT: All right. Record will so reflect.

11 Okay. I am going to step down. We'll
12 bring the jury in, we'll start with closing argument.

13 What's your time estimate?

14 MR. GROCH: 15, 20 minutes.

15 THE COURT: Mr. Mangarin, what's your time
16 estimate? I heard 20 minutes from the prosecution.

17 MR. MANGARIN: About 45 minutes, your Honor.

18 THE COURT: All right. I'll step down. Bring
19 the jury in.

20 (The following proceedings were had in open
21 court in the presence of the jury:)

22 THE CLERK: People of the State of California
23 versus Leovardo Salceda.

24 THE COURT: Record should reflect that all
25 members of the jury are present, along with counsel and
26 the defendant.

27 Good morning, ladies and gentlemen. This
28 morning we're going to hear the closing arguments of

1 counsel. There is also another trial that's taking
2 place in Los Angeles, and I know a number of you are
3 interested in that case. My clerk will monitor the
4 results, and at a break or whenever, we will advise you
5 of the outcome in that case.

6 Also, what I anticipate is that we'll hear
7 the arguments this morning, and then we'll take a
8 recess and you can listen to the commentary, whatever,
9 involving that case, and when you come back this
10 afternoon, I will instruct you on the law and give you
11 the case here for your deliberations.

12 Now, keep in mind my earlier comments about
13 the statements of the attorneys. The statements of the
14 attorneys are not evidence and should not be considered
15 by you as evidence. Each side will present his closing
16 arguments in the case. I'm sure that neither side will
17 intentionally try to mislead you. In the event,
18 however, your recollection of the evidence differs from
19 their recollection, you should rely upon your own
20 recollection.

21 Mr. Groch will go first. He will be
22 followed by Mr. Mangarin. Mr. Groch has an opportunity
23 to address you twice. He has an opportunity to talk to
24 you twice because he has the burden of proof in this
25 case.

26 All right, Mr. Groch, are you ready to
27 proceed?

28 MR. GROCH: Yes, your Honor, thank you.



1 with a deadly weapon.

2 It's now in your hands and I appreciate
3 your time, patience, and your consideration, and I ask
4 you to do the right thing. Doing the right thing is
5 following the law. Apply the facts to the law, coming
6 back with the verdicts of guilty.

7 Thank you.

8 THE COURT: All right, ladies and gentlemen, what
9 remains is for me to instruct you on the law and for
10 you to commence your deliberations.

11 You will have the jury instructions with
12 you in written form in the jury room. There are some
13 revisions that still need to be made, and there are
14 some instructions that need to be completed in their
15 final typing. The attorneys need to take care of that
16 and get those back to me before I instruct you on the
17 law, so we're going to take our recess and we'll be in
18 recess until 1:30.

19 Now, when you leave this courtroom you will
20 find out, I am going to tell you in a moment, the
21 verdict in the case in Los Angeles. All right.
22 Irrespective of your feelings on that verdict, whether
23 you think it's good or bad or whatnot, when you come
24 back this afternoon, I want you to put that aside. I
25 know that I could, but I am not going to sequester you,
26 obviously, over the noon hour, but that's a separate
27 case, so when you come back, I want you to put that
28 case aside, I want you to concentrate on this case,

1 concentrate on the instructions that I'll be giving you
2 and concentrate on the evidence that's presented in
3 this case. So I know you are going to find out about
4 the case, I know you are going to think about it, but
5 put that case aside when you come back.

6 We'll take our noon recess at this time.
7 We'll be in recess until 1:30. Keep in mind my
8 admonition it's your duty not to converse among
9 yourselves or anyone else on any topic connected with
10 the trial or form or express any opinion on the case
11 until it's submitted to you.

12 The verdict in the Simpson matter was not
13 guilty.

14 We'll recess now until 1:30.

15 (The following proceedings were had in open
16 court, outside the presence of the jury:)

17 THE COURT: Record should reflect we're outside
18 the presence of the jury.

19 Here are the items I need to come back this
20 afternoon, and I want to make sure that I know who is
21 taking responsibility for preparing a particular item.

22 Mr. Mangarin, you indicated that you do
23 want a self-defense instruction, I think that's 5.30,
24 so you will need to prepare that with the appropriate
25 copies for Mr. Groch. Be ready to present that.

26 17.10, which is an instruction dealing with
27 lesser related or included offenses, needs to be
28 revised. Do you want to do that, Mr. Groch?

State of California

California Department of Corrections and Rehabilitation

Memorandum

Date: February 15, 2007

To : FACILITY "B"
Inmate Population

Subject: FACILITY "B" SENSITIVE NEEDS YARD (SNY) CONVERSION

Facility "B" is currently undergoing conversion from Level II General Population (GP) to a Level II Sensitive Needs Yard (SNY). All facility "B" GP inmates will be reviewed by UCC starting the week of February 19, 2007. This process will continue until you are re-housed on another facility or transferred.

When you are approved to move or transfer your property shall not exceed the maximum of six (6) cubic feet. If transferring to another institution your property will be processed through R&R pursuant to established procedures.

GP critical workers will not transfer until the SNY conversion is at midpoint. At that time GP inmate workers will be unassigned and SNY inmates assigned.

TEMPORARY PROGRAM MODIFICATIONS:o **FEEDING**

SNY and GP inmates will be fed the morning and evening meals according to GP/SNY conversion schedule. SNY/GP inmates will be issued a sack lunch

0400 hours	GP Dining Workers Release
0530 hours	GP Early Workers Feeding
0550 hours	GP Scullery Workers back to housing units
0600 hours	SNY feeding commence "A" side dining
0630 hours	SNY feeding completed
0730 hours	GP feeding commence/ GP Scullery Workers return to Culinary
0800 hours	GP feeding completed
1015 hours	Deliver Sack Lunches to Housing Units
1200 hours	GP Dining Workers Report to Work
1700 hours	SNY feeding commence
1730 hours	SNY feeding completed
1800 hours	GP feeding commence/ GP Scullery Workers return to Culinary
1830 hours	GP feeding complete

Sensitive Needs Yard Conversion

3

- **Exercise Yard/Dayroom**

There will be no yard for SNY inmates until Wednesday, February 28, 2007, (see attached SNY Temporary Yard Schedule):

0600-1630/1730-2130 GP/SNY dayrooms in assigned units.
1200-1615 hours GP exercise yard
1900-2115 hours GP exercise yard

- **Medical Schedule:**

0600-0630/1700-1730 hours AM/PM GP diabetes and medications
0700-0730/1800-1830 hours AM/PM SNY diabetes and medications
0900-1000 hours SNY medical/dental calls and passes
1000-1200 hours GP medical/dental calls and passes

- **Mental Health**

Mental Health Services will be provided by mental Health Clinicians in the Facility "B" medical clinic on designated days and at designated times.

- **Visiting/Family Visiting**

Saturday

0800-1130 hours GP visiting
1200-1500 hours GP visiting

Sunday

0800-1130 hours GP visiting
1200-1500 hours GP visiting

There will be no visiting for SNY inmates until seen by UCC. At transition mid point SNY and GP program times (Feeding, Yard, visiting, etc.) will change.

- **Chapel**

SNY and GP inmates will be allowed Chapel during their scheduled yard times only.

- **Law Library**

Sensitive Needs yard inmates will not be scheduled to use the Law Library until the midway point of conversion has taken place. GP inmates will not be scheduled for the Law Library once midway conversion point is reached. Inmate who does not have access to the library, with legal deadlines, may submit an inmate request form to the Facility Librarian. Arrangements shall be made for access to materials on a case-by-case basis.

- **Canteen and Quarterly Packages**

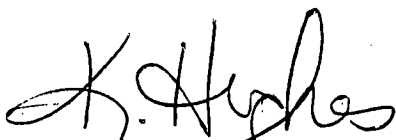
Canteen orders will be allowed for SNY inmate at conversion mid point and GP inmates will not longer be allowed canteen. Quarterly Packages for SNY inmates will not be allowed until conversion is completed. Quarterly packages

Facility "B" Sensitive Needs Yard Conversion
Page 3 of 3

for Facility "B" GP inmates will be terminated upon distribution of this procedure.

o **Special Purchases**

Sensitive Needs Yard inmate will not be allowed to make special purchases until conversion is complete. Special purchases for Facility "B" GP inmates are terminated upon distribution of this procedure.



K. HUGHES
Facility B Captain

cc: J.F. Salazar, Warden (A)
M. Muntz, Chief Deputy Warden
D. Ollison, Associate Warden, Complex I
J. Cortez, Associate Warden, Complex II
J. Abbs, Associate Warden, Business Services

State of California

California Department of Corrections and Rehabilitation

Memorandum

Date : February 21, 2007

To : All Staff

Subject: **FACILITY "B" SENSITIVE NEEDS YARD-TEMPORARY YARD SCHEDULE**

During the transition of Facility "B" to a Sensitive Needs Yard, the following temporary yard schedule will be implemented.

Wednesday, February 28, 2007

0800-1050 hours	GP exercise yard
1200-1600 hours	SNY exercise yard
1900-2115 hours	GP exercise yard

Thursday, March 1, 2007

0800-1050 hours	SNY exercise yard
1200-1600 hours	GP exercise yard
1900-2115 hours	SNY exercise yard

Friday, March 2, 2007

0800-1050 hours	GP exercise yard
1200-1600 hours	SNY exercise yard
1900-2115 hours	GP exercise yard

Saturday, March 3, 2007

0800-1050 hours	SNY exercise yard
1200-1600 hours	GP exercise yard
1900-2115 hours	SNY exercise yard

Sunday, March 4, 2007

0800-1050 hours	GP exercise yard
1200-1600 hours	SNY exercise yard
1900-2115 hours	GP exercise yard

Monday, March 5, 2007

0800-1050 hours	SNY exercise yard
1200-1600 hours	GP exercise yard
1900-2115 hours	SNY exercise yard

Sensitive Needs Yard-Facility "B"
February 14, 2007
Page 7

Monday, April 16, 2007

0800-1050 hours	SNY exercise yard
1200-1600 hours	GP exercise yard
1900-2115 hours	SNY exercise yard

Tuesday, April 17, 2007

0800-1050 hours	GP exercise yard
1200-1600 hours	SNY exercise yard
1900-2115 hours	GP exercise yard

Wednesday, April 18, 2007

0800-1050 hours	SNY exercise yard
1200-1600 hours	GP exercise yard
1900-2115 hours	SNY exercise yard

Thursday, April 19, 2007

0800-1050 hours	GP exercise yard
1200-1600 hours	SNY exercise yard
1900-2115 hours	GP exercise yard

Friday, April 20, 2007

0800-1050 hours	SNY exercise yard
1200-1600 hours	GP exercise yard
1900-2115 hours	SNY exercise yard

Effective April 17, 2007, all general population inmates will be removed from Facility "B", therefore Facility "B" will resume a normal yard program.

Questions concerning the Facility "B" yard program during transition to an SNY, should be referred to the Facility "B" Captain at extension 6220.



J. F. SALAZAR

Warden (A)

Chuckawalla Valley State Prison



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~~0193~~

SALCEDA, LEOVARDO
SCD-112436

11

11/17/95

Gang Affiliation:

The defendant states he joined the "Varrio Encanto Locos" when he was in the fourth grade; however, he states he severed his ties when he was released from state prison.

Collateral Information:

When interviewed in preparation for the presentence report in Case CR 140382, dated 8-11-93, on page four, the defendant's statement included some of the following:

"I had been drinking all day, and I remember I was trying to get home."

"I have a problem with alcohol. I am asking to work a program. I have never been to one, or tried to work one. I want to change for myself and for my family. I am attending A.A. Meetings every day, Monday through Friday, and learning something new and positive every day."

"I want to help myself... we have two beautiful daughters, and I love my wife and daughters with all my heart. I do not want to lose them because of drinking in jail, so please, I am asking for a chance."

Further, when interviewed orally by the Probation Officer regarding the incident which involved the defendant swinging a large brick at the victim, and then threatening the victim with a broken beer bottle, the defendant stated he believed he was in a blackout when it occurred. He reported that he had been drinking all day and became very intoxicated. He stated he was trying to get home and believed he went to the victim's house to ask for a ride.

SENTENCING DATA:

The Judge made a true finding on the first, second, and third strike priors, pursuant to PC 667(b)-(i). There is only one sentence choice available to the Court, that being an indeterminate term of 25-years-to life. Thus, there is no need to cite the mitigants or aggravants.